

BANGLADESH

RAVAGING THE VULNERABLE: Abuses Against Persons at High Risk of HIV Infection in Bangladesh

MAP OF BANGLADESH.....	3
I. SUMMARY	4
II. RECOMMENDATIONS	7
To the Government of Bangladesh.....	7
Reform the law enforcement system.....	7
Enhance and expand the national effort against HIV/AIDS	8
To bilateral and multilateral donors.....	9
To the United Nations	9
III. METHODS	10
IV. BACKGROUND	11
HIV/AIDS and Bangladesh	11
Police, Mastans, and the Army	14
Sexual Violence.....	17
Legal Framework.....	18
V. ABUSES AGAINST WOMEN SEX WORKERS	21
Sexual Violence and Other Physical Abuse	23
Extortion	27
Arbitrary Arrests.....	27
The Law on Sex Work	28
Extortion, Beatings, and Rapes Following Arrest.....	29
Vagrancy Homes	30
Violent Eviction of the Magura Brothel	31
No Means of Redress.....	32
Interference with Efforts to Fight HIV/AIDS.....	33
Social Stigma.....	35
VI. ABUSES AGAINST MEN WHO HAVE SEX WITH MEN	37
Sexual Violence and Other Physical Abuse	39
Extortion and Theft.....	39
Arbitrary Arrests.....	40
No Means for Redress	41
Interference with Efforts to Combat HIV/AIDS	41
Social Stigma.....	42
Section 377 of the Penal Code.....	43
VII. ABUSES AGAINST INJECTION DRUG USERS	44
Abuse by Police.....	44
Abuse by Mastans.....	45
Arrests of Needle Exchange Workers	45

VIII. STATE RESPONSE	47
IX. CONCLUSION	49
APPENDIX: JUNE 2002 DECLARATION BY SEX WORKERS NATIONAL NETWORK	50
ACKNOWLEDGMENTS	51

MAP OF BANGLADESH



I. SUMMARY

Bangladesh is at a critical moment in its emerging epidemic of acquired immune deficiency syndrome (AIDS). The prevalence of human immunodeficiency virus (HIV) in the population remains relatively low by official estimates, yet several factors suggest the risk of a devastating epidemic. Bangladesh is neighbor to major epidemics in India and Southeast Asia, and there is a good deal of migration across national borders. Bangladesh has a high rate of poverty, systemic gender inequality, and an inadequate health care system. Behavioral surveys have shown that sex workers and men who have sex with men often have unprotected sex, and injection drug users often share needles, in some cases because alternatives to these behaviors are limited. There is growing recognition within the Bangladesh government and among international agencies that the country must take immediate, concerted action to avoid a severe AIDS epidemic.

The Bangladesh national AIDS policy acknowledges that persons most at risk of HIV transmission—such as sex workers, men who have sex with men, and injection drug users—are essential partners in any successful fight against AIDS. These are the people in greatest need of HIV/AIDS information and services, and they are also often the people in the best position to deliver information and services to their peers. And yet Human Rights Watch found in investigations conducted in December 2002 that the Bangladesh government both commits and condones the commission of severe violations of the human rights of persons in all three of these high-risk groups, including peer educators who provide vital HIV prevention services.

Both sex workers and men who have sex with men are regularly abducted, raped, gang-raped, beaten, and subject to extortion by the police and by powerful thugs termed *mastans*. Mastan is the name given to criminals who sometimes act as musclemen for Bangladesh's political parties in exchange for the parties' tolerance of the mastans' racketeering and other criminal activity. Today the term is used to refer not only to thugs with direct political affiliations but also more broadly to powerful criminals.

One sex worker from Dhaka, Jahan H., told Human Rights Watch that in September 2002 a police officer locked her in a hotel room for two days during which he beat her with a belt and raped her seven times.¹ The officer also brought three of his friends into the room, each of whom raped her. She reported being raped by police officers several other times in 2002, and being raped as often as once a week by mastans. In mid-2002, she was forcibly taken to a warehouse and raped by seven mastans throughout the night. Jahan H.'s experiences are not anomalous. Another sex worker, Lani N., twenty, reported she was raped by police officers three times in 2002. She also said that one night in late 2002 she was forced onto a bus and taken to a place where she was raped and beaten by about twenty mastans.

Twenty-year-old Rakesh K., who identified himself to Human Rights Watch as a man who has sex with men, said that in December 2002 a police officer brought him to a police barracks where he was raped by four officers. Rakesh K. also said that mastans raped him approximately four to five times per month in the months prior to meeting Human Rights Watch. He said that mastans usually would rape him in groups of two or three and also would take his money.

Sex workers and men who have sex with men encountered by Human Rights Watch were often arrested seemingly for the purpose of the same kinds of abuse—rape, beatings, and extortion—rather than for law enforcement. When three police officers arrested twenty-year-old Shipna B. in late 2001, they did not charge her with a crime or even take her to the police station. Instead they demanded a bribe; when she was unable to pay it, one of the officers raped her.

The police deal a direct blow to Bangladesh's anti-AIDS efforts by beating and arresting sex workers and men who have sex with men who work on HIV/AIDS outreach and education among their peers. Peer education is among the most effective and sometimes the only way to bring HIV information, condoms, and other services to these hard-to-reach persons. One outreach worker from Dhaka, Ali L., was beaten by police while distributing

¹ The names of witnesses have been changed for their protection.

condoms and conducting HIV/AIDS education among men who have sex with men. “[The police] hit me with a cane, with their gun, they kicked me and slapped me and pulled my hair and pulled on my collar and the waistline of my pants.”

Perpetrators of sexual violence and other forms of abuse are not held accountable by either the police or the government. Both sex workers and men who have sex with men reported that their attempts to make official complaints about the abuses they experienced were largely ignored and sometimes ridiculed. Durga R. said she had been raped by police officers more times than she could count, and that she had tried to complain about these rapes once, in late 2001. She spoke to a high-ranking police officer who told her that if police wanted to have sex with her she should “make them happy.” He asked her how else she expected to do business in the street. She said that was the only time she complained.

Partly this impunity reflects broader social attitudes which stigmatize both sex workers and men who have sex with men. They are ostracized by their families and communities and denied access to education, employment, housing, and health care. Both groups are portrayed as inherently “bad” and face constant attacks on their dignity. They are particularly vulnerable to sexual violence, which is justified both by the perpetrators of the violence and by the unresponsive authorities as the deserved consequence of, in the case of sex workers, their work or, in the case of men who have sex with men, their sexual identity.

Injection drug users also face great stigma and ostracization. Because they use drugs, they too are portrayed as inherently “bad,” though the abuse they face seems not to be specifically sexual. Injection drug users are beaten and subject to extortion by police and mastans, and needle exchange workers are sometimes arrested though rarely charged, all of which can have debilitating consequences for life-saving services. Farukh R., for example, told Human Rights Watch that prior to entering a rehabilitation program in December 2002, he regularly obtained clean needles from the CARE needle exchange program in Chapai Nawabganj. He said that after the arrest of a needle exchange worker in July 2002, he and other users were fearful and had a hard time locating needle exchange workers. Farukh R. said that as a result he shared needles with three to five other users for a period of about two weeks before he was able to reestablish regular contact with needle exchange workers.

These abuses—abductions, rapes, beatings, and extortion by police and mastans, arbitrary arrests and detentions, wider social discrimination—reflect the second-class status of sex workers, men who have sex with men, and injection drug users. The perpetuation of the abuses leads to even greater subordination. The abuses violate both Bangladeshi law and international human rights law, which are based on the inherent dignity and equality of all people.

Because sex workers, men who have sex with men, and injection drug users are so crucial to Bangladesh’s fight against AIDS, the abuses have the additional consequence of reducing Bangladesh’s capacity to curtail an emerging AIDS epidemic. HIV can be transmitted through rape. And even when rape is not part of the abuse, harassment of HIV/AIDS outreach workers directly interferes with efforts to disseminate information and build awareness of HIV and to distribute condoms and clean needles. More generally, the abuses faced by sex workers, men who have sex with men, and injection drug users further alienate these already marginalized persons from society and decrease the degree of control they have over their own lives. They become more difficult to reach with prevention and care information and services and they are in less of a position to protect their own health and the health of others.

Sex workers, men who have sex with men, and injection drug users experience an especially brutal manifestation of what are in fact nationwide problems in Bangladesh: violence and exploitation by police and mastans. Both civil society and, at certain points, the Bangladesh government have recognized that the police are widely corrupt and ineffective and that mastans wield a great deal of unchecked power over the general population. The predominance of mastan criminal activity and the police’s inability or unwillingness to control it led the government to mobilize the army to fight domestic crime in late 2002. That mobilization, which the government called Operation Clean Heart, resulted in many serious human rights abuses, including the deaths in custody of at least forty people. The government has since immunized soldiers, police officers, and government

officials from prosecution in the public courts for abuses that occurred during the campaign. Ultimately, Bangladesh must reform its law enforcement system to curtail the system's own abuses and to make it effective in protecting citizens' rights against mastans.

The plight of sex workers, men who have sex with men, and injection drug users lies, then, at the intersection of two great challenges for Bangladesh: its crisis of law and order and its struggle against the threat of a massive AIDS epidemic. In regard to both challenges, the situation of sex workers, men who have sex with men, and injection drug users also represents an opportunity. If Bangladesh can end police abuse of these groups and protect them from abuse by mastans, the nation will have made critical progress, both toward strengthening its fight against AIDS and toward creating an effective, rights-respecting law enforcement system. The nation also will have extended a measure of basic human dignity to people to whom dignity has been long and brutally denied.

II. RECOMMENDATIONS

To the Government of Bangladesh

Reform the law enforcement system

Human Rights Watch's research demonstrates that the police are both violators of human rights themselves and ineffective at protecting against abuse by mastans. The government should consider the following proposals for police reform.

Police Conduct

- Send a strong and clear message to police officers, through words and actions, that human rights violations will not be tolerated and that violators will be dismissed from their positions and prosecuted as criminals.
- Establish an active, independent, civilian body for monitoring and investigating police misconduct. This body should solicit and receive complaints from civilians, and should be vested with the power to dismiss individual officers. Its findings should also automatically be forwarded to government prosecutors for possible criminal prosecution against officers.
- Supervising officers who fail to discipline, retrain, or otherwise address the behavior of officers who repeatedly violate human rights should also be investigated, disciplined and/or dismissed.
- Eliminate informal arrest quotas.
- Institute regular, rigorous training for police officers, including training on human rights—in particular the human rights of vulnerable groups—and on HIV/AIDS.
- Reform recruitment and retention practices for the police, including eliminating corruption in police hiring, raising police salaries, raising education requirements for police work, and creating a rigorous, merit-based hiring process.
- Develop a uniform code of conduct for police officers. The code should be consistent with the U.N. Code of Conduct for Law Enforcement Officials.

Investigation and Prosecution

- Give high priority to prosecuting persons in positions of power who commit human rights abuses, including police officers throughout the chain of command and mastans. Consider establishing special prosecutors for the prosecution of rights-abusing police officers and mastans.
- Develop and publicize an accessible process for filing and recording complaints (First Information Reports or FIRs). Citizens should have recourse to a second avenue for registering a complaint if an initial attempt is ignored.
- Develop a system for monitoring each police station's investigative and prosecutorial follow-up to complaints filed.
- Prosecute abductions, rapes, beatings, and extortion against women, men, and children regardless of the identity of the victim and/or perpetrator. The special courts established by the 2000 Repression of Violence Against Women and Children Act for the speedy prosecution of violent crimes against women and children may provide a useful forum for these cases. Rape and other crimes committed against men should not be overlooked.

- The law should be amended to recognize sexual violence against men and boys.
- Create a National Human Rights Commission for the independent investigation of human rights abuses.

Criminal Procedure

- Repeal section 54 of the Code of Criminal Procedure—which grants broad latitude for arrest and detention without a warrant or an order from a magistrate—and replace it with clear, strict limitations on situations where an arrest without warrant is permissible, such as when a crime is occurring (*flagrante delicto*) or about to occur. An officer’s decision to arrest should be subject to review in court.
- Ensure that all arrestees are charged promptly and presented without delay before a magistrate, as is required by section 62 of the Code of Criminal Procedure and the International Covenant on Civil and Political Rights.
- Ratify the Convention against Torture and Other Cruel Inhuman and Degrading Treatment or Punishment.

Vulnerable Persons and Victims of Crime

- Establish regular contact between supervising officers and representatives or organizations of groups that typically face police abuse, so that persons from these groups have a forum for communicating their concerns.
- Provide medical and legal services for victims of violent crime. Fulfill Prime Minister Zia’s promise of instituting crisis centers in all divisional city hospitals to provide treatment and legal aid for women survivors of violence.
- End the illegal practice of confining sex workers in vagrancy homes.
- Revise rape laws—section 375 of the Bangladesh Penal Code and the Repression of Violence Against Women and Children Act— so that they protect victims regardless of gender.
- Repeal section 377 of the Bangladesh Penal Code, which has been interpreted to criminalize male-to-male sex.

The Army

- The army should only be deployed for domestic law enforcement in extreme circumstances.
- If the army is to continue to have a role, ensure that the army respects the law and the rights of suspects and all civilians. Institute procedural requirements for soldiers’ conduct and revoke immunity for abuses committed by soldiers during Operation Clean Heart.

Enhance and expand the national effort against HIV/AIDS

The government must take immediate, concerted action to avoid a major epidemic.

- Raise public awareness about the modes of HIV transmission, methods of prevention, and elements of AIDS treatment and care.
- Respect—and raise awareness of—the rights of people vulnerable to HIV/AIDS and the rights of people living with HIV/AIDS. This may include the use of mass media and human rights trainings for community and religious leaders.
- Recognize and support Bangladesh’s needle exchange programs and ensure that needle exchange outreach workers are not harassed or arrested by the police.

- Support HIV/AIDS outreach work with sex workers, men who have sex with men, and other vulnerable groups, including peer-driven approaches. Ensure that outreach workers are not arrested and are not harassed by the police or mastans.
- Ensure access to high-quality, affordable condoms.
- Raise awareness of the connection between sexual violence and HIV/AIDS, and undertake education efforts to eliminate the social stigma connected to being a victim of rape or other acts of sexual violence.
- Expand the availability of humane, effective treatment for drug addiction.
- Provide sex workers with access to training and counseling for the pursuit of alternative careers.
- Improve institutional capacity to make use of resources available for addressing HIV/AIDS, such as the \$50 million loan/aid package from the World Bank and the U.K. Department for International Development that was approved in 2000. (Implementation problems have largely stalled the project.)

To bilateral and multilateral donors

- Support reform of the Bangladesh law enforcement system with the aim of eliminating abuse by police and mastans and protecting the human rights of all citizens, including persons vulnerable to HIV/AIDS.
- Support the development of an effective national program to address HIV/AIDS, including protection of the rights of people vulnerable to HIV/AIDS and the rights of people living with HIV/AIDS.
- Engage publicly and privately with the Bangladesh government to highlight the importance of respecting the rights of persons vulnerable to HIV/AIDS.
- In particular, the World Bank and the U.K. Department for International Development should insist that as Bangladesh implements the loan/aid package negotiated in December 2000 for addressing HIV/AIDS (which is currently being scaled down in the face of implementation difficulties), the government take serious steps toward curtailing abuses by police and mastans against persons vulnerable to HIV/AIDS.
- Support the development of membership organizations among sex workers, men who have sex with men, and injection drug users such that these persons can have collective institutional voices.

To the United Nations

- Engage in public and private advocacy about the need to protect the rights of persons vulnerable to HIV/AIDS. In particular, U.N. agencies that work with persons vulnerable to HIV/AIDS and/or with the law enforcement system, such as UNAIDS, WHO, and UNDP, should ensure that their programs support the pursuit of greater protection for the rights of persons vulnerable to HIV/AIDS.

III. METHODS

Human Rights Watch conducted research for this report in Bangladesh in December 2002, as well as by phone and electronic mail in early 2003. The field research took place in Dhaka, Rajshahi, Tangail, and Sylhet. Human Rights Watch identified witnesses through organizations of sex workers, organizations of men who have sex with men, needle exchange programs, and drug rehabilitation programs. Human Rights Watch conducted in-depth interviews with some thirty-four female sex workers, seventeen men who have sex with men, and twelve former and current injection drug users. Many of the names have been changed to protect witnesses. Pseudonyms do not necessarily reflect the religion of the witnesses.

Human Rights Watch also spoke with staff persons of human rights organizations, health and development nongovernmental organizations (NGOs), the U.S. Agency for International Development (USAID), the World Bank, and scholars, lawyers, and doctors in the country. Human Rights Watch attempted to contact the Home and Health Ministries of the Government of Bangladesh by phone and by written inquiries but neither ministry replied. Human Rights Watch later sent copies of the unanswered letters and a request for a meeting to the Bangladesh Mission to the United Nations in New York, and followed up the written request by phone. The Bangladesh Mission also did not respond.

IV. BACKGROUND

HIV/AIDS and Bangladesh

Bangladesh is at a critical moment in the course of its AIDS epidemic. On the one hand, official figures suggest the epidemic is not widespread. The Joint United Nations Programme on HIV/AIDS (UNAIDS) estimates that there are 13,000 HIV-positive people in the country and that HIV prevalence in the adult population is less than a tenth of one percent.² This figure may be a significant underestimate—UNAIDS itself acknowledges that it is based on sporadic data—but other studies also suggest a relatively low prevalence. The Third National HIV Surveillance conducted in 2000-2001, for example, found an HIV infection rate of 0.5 percent among street-based sex workers in central Bangladesh, which is low compared to studies of sex workers in other parts of South Asia.³

On the other hand, several features of the Bangladesh situation make it particularly vulnerable to a devastating epidemic. Bangladesh is surrounded by parts of India with high HIV prevalence—West Bengal to the west and Northeastern India to the east—and is also neighbor to the epidemics of Southeast Asia. There is a good deal of migration across Bangladesh's borders.⁴ Furthermore, awareness of HIV/AIDS in the Bangladeshi population remains quite low. One recent survey found that "only 19 percent of ever-married women and 33 percent of currently married men had heard of AIDS."⁵ As of July 2003 there was virtually no sex education in Bangladeshi schools, though the government had announced a plan to begin offering sex education in public schools for the first time in 2004.⁶

It is not surprising, then, that several studies have found that risky behavior is common. The Ministry of Health concluded in its report on the Third National HIV Surveillance, for example, that "[a]lmost everyone buying sex in Bangladesh is having unprotected sex some of the time, and a large majority don't use condoms most of the time."⁷ Of 500 injection drug users questioned in central Bangladesh during the surveillance, 93.4 percent said they had shared needles or injecting equipment in the past week.⁸ The Third National Surveillance also found a high prevalence of syphilis among sex workers. The same street-based sex workers in central Bangladesh who had a 0.5 percent prevalence of HIV, for example, had a 42.7 percent prevalence of syphilis.⁹ This high prevalence of syphilis suggests, firstly, "that unprotected sex with multiple partners is indeed a norm at least for some subsections of the Bangladeshi population."¹⁰ Secondly, these results highlight the high HIV risk among sex workers because infection with other sexually transmitted diseases increases the risk of HIV

² UNAIDS and World Health Organization, "UNAIDS/WHO Epidemiological Fact Sheet: Bangladesh," 2002 Update [online], http://www.who.int/emc-hiv/fact_sheets/pdfs/Bangladesh_EN.pdf (retrieved January 15, 2002).

³ National AIDS/STD Program, Bangladesh Ministry of Health and Welfare, "HIV in Bangladesh: Where is it Going?," (Dhaka: November 2001), p. 6. The Fourth National HIV Surveillance was conducted in 2001-2002, but as of this writing the results have not been released.

⁴ "Estimates project that a total of 25,000 Bangladeshi women and children are trafficked out of the country annually." The Protection Project, "A Human Rights Report on Trafficking of Persons, Especially Women and Children: Bangladesh," March 2002, citing Rokshana Yesmin, "Rehabilitating Trafficked Women," *Independent Bangladesh*, September 7, 2001, and "Human Trafficking is Going Unabated along the Borders," *Business Recorder, Global News Wire*, June 4, 2001. This is not to mention the flow of voluntary migrants across Bangladesh's borders.

⁵ "Time for anti-AIDS steps: Nafis Sadik," *Daily Star*, January 16, 2003, vol. 3, no. 1193, General News.

⁶ "Bangladeshi Schools to Have Sex Education from 2004," Agence France Presse, December 26, 2002 [online], <http://www.aegis.com/news/ads/2002/AD022495.html> (retrieved February 4, 2003).

⁷ Bangladesh Ministry of Health and Welfare, "HIV in Bangladesh: Where is it Going?," p. 13.

⁸ *Ibid.*, p. 12.

⁹ *Ibid.*, p. 6. The surveillance also reported a high prevalence of syphilis in injection drug users and male sex workers in central Bangladesh. Of those surveyed, 18.2 percent of injection drug users in central Bangladesh and 18.2 percent of male sex workers in central Bangladesh were infected with syphilis.

¹⁰ *Ibid.*, p. 18.

transmission. Bangladesh also has a high rate of poverty,¹¹ systemic gender inequality,¹² and an inadequate health care system,¹³ all of which have been seen in many settings to be contributing factors to the rapid spread of HIV.

Various nongovernmental organizations (NGOs) have been working on HIV/AIDS outreach and prevention in Bangladesh for several years. There is growing acknowledgment within the government and among international agencies that Bangladesh must take immediate, concerted action to avoid a severe AIDS epidemic. The U.N. special HIV/AIDS envoy for Asia, Nafis Sadik, said in January 2003 that the “time for action is today” if Bangladesh is to avoid a sharp rise in HIV infections over the coming decade.¹⁴

Bangladesh formed a national AIDS committee in 1985 and first established a national AIDS control and prevention program in 1996 with the help of the United Nations Development Program (UNDP). That program is now called the National AIDS/Sexually Transmitted Disease (STD) Program and is a part of the Ministry of Health. Bangladesh adopted a “National Policy on HIV/AIDS and STD Related Issues” in 1997.¹⁵ The National AIDS/STD Program has, among other things, conducted prevalence and behavior surveys among persons at high risk, run a television and billboard advertising campaign to raise awareness of HIV/AIDS, supported some NGOs in their work with persons at high risk, and provided HIV/AIDS training to some 55,000 health and family welfare workers.¹⁶

In 2000, the Bangladesh government entered an agreement with the World Bank and the United Kingdom Department for International Development (DFID) to expand the activities of Bangladesh’s National AIDS/STD Program over the five-year period from 2001 to 2005. The total budget for the five-year project was set at U.S.\$52.59 million, of which the World Bank was to provide U.S.\$40 million in the form of a no-interest loan, DFID was to provide U.S.\$10 million in the form of a grant, and the Bangladesh government was to contribute U.S.\$2.6 million.¹⁷ According to a World Bank official in Dhaka, approximately 60 percent of the money was originally planned to be given as grants to implementing NGOs of which much would have gone toward work with groups representing persons at high-risk such as sex workers, men who have sex with men, injection drug users, migrant laborers, and street children. As of May 2003, the World Bank reported that implementation difficulties had prevented disbursement of all but about 5 percent of the funds and that the project would have to be scaled back from the originally slated levels. Nonetheless it was hoped that at least a few NGOs working with vulnerable persons would benefit from the package.¹⁸

¹¹ U.N. Assistant Secretary General Hafiz Pasha estimated on February 25, 2003 that 40-50 million of Bangladesh’s 140 million people are extremely poor, living on less than a dollar a day. “40-50m Bangladeshis extremely poor, says top UN official,” *Daily Star*, February 26, 2003, vol. 3, no. 1230, Front Page.

¹² One recent study of some 2000 children found that, holding other variables constant, girls were 44 percent more likely than boys to be severely malnourished. The authors interpreted this finding, as well as the findings of several other studies, to “indicate the deep-rooted nature of the inferior position of women in this society in general.” Kaneta Choudhury, Manzoor Hanifi, Sabrina Rasheed, and Abbas Bhuiya, “Gender Inequality and Severe Malnutrition in a Remote Rural Area of Bangladesh,” *Journal of Health, Population, and Nutrition*, vol. 18, no. 3 (December 2000), p. 130. According to the World Health Organization, women made up 0.1 percent of all employers and 7.6 percent of all employees but 78.3 percent of all unpaid family workers in 1995-1996. World Health Organization, “Women’s Health and Development Related Indicators,” [online], <http://w3.who.sea.org/women2/bangladesh.htm> (retrieved June 5, 2003).

¹³ As of 1997, for example, there were an average of 2.03 physicians per 10,000 people in Bangladesh. World Health Organization, “Country Health Profile” [online], <http://w3.who.sea.org/cntryhealth/bangladesh/bangstatics.htm> (retrieved April 29, 2003).

¹⁴ “HIV/AIDS: U.N. Envoy Warns Bangladeshi Infection Rate Could Skyrocket,” U.N. Wire, January 16, 2003 [online], <http://www.unfoundation.org/unwire/2003/01/16/current.asp#31465> (retrieved January 16, 2003).

¹⁵ National AIDS/STD Program, “Chronology of HIV/AIDS Intervention in Bangladesh” [online], <http://dhaka-bd.com/bangla-aids/document/hostory.htm> (retrieved April 23, 2003).

¹⁶ Directorate General of Health, Government of Bangladesh, “An Overview of National AIDS/STD Program,” (Dhaka), pp. 4-5.

¹⁷ Health, Nutrition and Population Sector, World Bank, “Project Appraisal Document” (2000), p. 1.

¹⁸ Human Rights Watch interview with Enrique Pantoja, Country Officer for Bangladesh, and Kapil Kapoor, Principal Economist, World Bank-Dhaka, in Washington D.C., May 29, 2003.

Sex workers, men who have sex with men, and injection drug users are all marginalized in Bangladeshi society, as they are in many societies. If Bangladesh's campaign against AIDS is to succeed, however, these vulnerable persons must be partners in the effort. These are the people most in need of HIV/AIDS information and services, and they are also often the people in the best position to deliver such information and services to their peers. Bangladesh's national AIDS policy recognizes the importance of respecting those vulnerable to HIV:

The protection of the human rights of those vulnerable to and infected by HIV has been shown to be an essential component to HIV/AIDS prevention and care worldwide. Strategies designed to bring about necessary behaviour changes needed to prevent the spread of HIV/AIDS/STD are more likely to be effective if they occur in an enabling and supportive environment.¹⁹

This commitment to protecting and supporting persons vulnerable to HIV/AIDS is consonant with U.N. guidelines and international consensus statements. For example, the International Guidelines on HIV/AIDS and Human Rights published by the U.N. High Commissioner for Human Rights and UNAIDS posit that states "should enact or strengthen anti-discrimination and other protective laws that protect vulnerable groups" and that states, "in collaboration with and through the community, should promote a supportive and enabling environment for women, children, and other vulnerable groups."²⁰ This report demonstrates that rather than being given "an enabling and supportive environment," sex workers, men who have sex with men, and injection drug users are regularly abused by police and by powerful criminals.

Though the focus of this report is on persons vulnerable to HIV, reports also suggest that Bangladesh has violated the liberty of some persons who may be or are already living with HIV. Among the "Fundamental Principles" in Bangladesh's AIDS policy is that "there is no justification to restrict the rights or freedom of persons solely on the grounds that they are, or may be, infected with HIV."²¹ The policy's discussion of HIV testing states that "there is no place in [the] national AIDS prevention and control programme for . . . testing without informed consent."²² The same two principles—that an HIV-positive person has a right to freedom of movement and a right not to be tested without consent—are echoed in the U.N. International Guidelines on HIV/AIDS and Human Rights. The guidelines state that these two principles are implicit in existing international human rights protections.²³

Reports suggest that Bangladesh has violated both its commitment not to test persons forcibly for HIV and its commitment to respect the liberty of persons living with HIV/AIDS. In 1999, police violently evicted the residents of two major brothels near Dhaka, and many sex workers were arrested during the evictions.²⁴ Staff members of CARE, an international NGO working on HIV/AIDS in the country, told Human Rights Watch that some of the arrested sex workers were forcibly tested for HIV, and that of those forcibly tested, two sex workers from one of the brothels tested positive. One managed to escape; the other, a sixteen-year-old girl, was detained in a government hospital in Dhaka. A CARE staff member who visited the detained girl said that her room was guarded twenty-four a day by police, and that the girl, who was in good health, was allowed to leave only to eat and to use the bathroom. CARE lobbied with the Bangladesh Home and Health Ministries for seven months, after

¹⁹ Government of Bangladesh, "National Policy on HIV/AIDS and STD Related Issues," (Dhaka: October 1996), p. 2.

²⁰ Office of the United Nations High Commissioner for Human Rights and the Joint United Nations Programme on HIV/AIDS, "HIV/AIDS and Human Rights: International Guidelines," U.N. Doc. HR/PUB/98/1, Geneva, 1998, Guideline 4, p. 11, and Guideline 8, pp. 11-12.

²¹ Government of Bangladesh, "National Policy on HIV/AIDS and STD Related Issues," p. 7.

²² Ibid., p. 27.

²³ "There is no public health rationale for restricting liberty of movement or choice of residence on the grounds of HIV status . . . [such restrictions] are discriminatory and cannot be justified by public health concerns;" "The duty of States to protect the right to privacy . . . includes the obligation to guarantee that adequate safeguards are in place to ensure that no testing occurs without informed consent." Office of the United Nations High Commissioner for Human Rights and UNAIDS, "HIV/AIDS and Human Rights: International Guidelines," pp. 105, 199.

²⁴ Ain o Salish Kendra, *Human Rights in Bangladesh 2001* (Dhaka: 2002), pp. 52-54.

which the girl was released on the condition that CARE would “take full responsibility” for her. On release, the girl began working with CARE as a peer educator.²⁵

CARE also reported that the Bangladesh government followed a practice of forcibly testing Burmese fishermen who were arrested by the Bangladesh navy for coming into Bangladeshi waters. Staff members at CARE said that three fishermen who tested positive for HIV in 1996 were detained in the same Dhaka hospital as the sex worker mentioned above. A CARE staff member who visited these men said that they were not even allowed onto the balcony of the building in which they were held. Their only exposure to the outside was a single window in their room. Bangladesh reportedly contacted the Burma government, but the Burma government denied that these men were citizens. Bangladesh refused to release them, and all three men died in captivity, one in May 2001 and two in April 2002.²⁶

Police, Mastans, and the Army

Abuses against sex workers, men who have sex with men, and drug users are extreme but not unique to these persons. Because of their social and legal vulnerability, these persons experience an especially brutal—and, in the case of two groups, sexual—manifestation of a broader trend in Bangladesh: violence and exploitation by police and mastans. Transparency International, an international NGO with an office in Dhaka, conducted a survey in 2002 that ranked the police as the most corrupt public institution in Bangladesh.²⁷ The study reported, for example, that “84 percent of respondents who interacted with the police department reported corruption. In 96 percent of the cases [of arrest], bribes were paid for a release after arrest under a false pretext.”²⁸ Another study, based on focus groups with a cross-section of middle- and working-class Bangladeshis, summed up people’s perceptions of the police this way: “They collect money, torture people, do not record complaints as per rules and procedure, have linkage with criminals/mastans and enjoy largess from smuggling and drug trafficking.”²⁹ According to Amnesty International, at least eight people reportedly died in 2002 after being tortured in police custody.³⁰

Senior police officials have acknowledged that their officers are often involved in crime. After eight policemen were arrested on kidnapping and extortion charges in February 2003, the *Daily Star*, a Bangladeshi English language daily, interviewed several police officials on the state of the police force. The *Star* reported that “[s]enior police officials have linked increasing involvement of law enforcers in crimes to lack of supervision and [lack of] disciplinary actions against the wrongdoers.” The article quotes the Dhaka Metropolitan Police Commissioner at the time, Mohammad Abdul Qayyum, as promising actions against errant officers but as maintaining, according to the *Star*’s paraphrase, that “only disciplinary action against a few can neither check police involvement in crime nor improve the department’s performance.” Qayyum suggested, in addition, placing senior officers in charge of problem police stations and creating “better incentive and motivation” for quality police performance.³¹

Several provisions of Bangladesh law may facilitate police abuse. Most of the arrests documented by Human Rights Watch in this report took place under section 54 of the Bangladesh Code of Criminal Procedure, which allows for arrest and detention without a warrant or an order from a magistrate. The section delineates nine instances in which such an arrest is permissible, the broadest of which pertains to “any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned.”³² In many legal

²⁵ Human Rights Watch interviews with representative from CARE-Bangladesh, Dhaka, December 23, 2002 and by phone, May 8, 2003.

²⁶ Ibid.

²⁷ Transparency International, “Corruption in South Asia,” December 2002, p. 12.

²⁸ Ibid., p. 13.

²⁹ Muzaffer Ahmad, “Corruption as People See it,” Transparency International [online], <http://www.ti-bangladesh.org/olddocs/survey/people.html> (retrieved February 4, 2003).

³⁰ Amnesty International, “International Report: Bangladesh,” 2003.

³¹ Shaikh Nazrul Islam, “Poor supervision leads police into crime,” *Daily Star*, February 9, 2003, p. 1.

³² Bangladesh Code of Criminal Procedure, 1898, Section 54.

systems, arrest without warrant is only allowed when a crime is in progress (*flagrante delicto*) or when a crime is about to occur. Because section 54 gives such broad latitude for arrest without warrant, the law opens the way for abuse of the power to arrest. Odhikar, a Bangladeshi human rights organization, investigated section 54 arrests in four police stations in three districts over a period of nine months. It found in 2001 that “the large majority of persons arrested under section 54 . . . are from very poor economic backgrounds,” and that many of the arrests occurred for illegitimate reasons, such as to extract a bribe, to fulfill an informal arrest quota, or to settle a political score.³³ Odhikar also found that “women and children are picked off the streets at random, charged under section 54 and sent to the various shelter homes and jails in the country, as being under ‘safe custody.’”³⁴ It concluded:

From the above research, it is easy to see how section 54 . . . can be twisted to inflict human rights abuses. Not only does the detainee suffer the loss of liberty, he also has to face humiliation and police torture. The phrase ‘with reasonable suspicion’ [which appears as a requirement in several of the nine permissible instances delineated in the section] gives the green light to unscrupulous police to misuse and abuse this section and contravene all Constitutional guarantees of the rights to life, liberty and equality before the law.³⁵

Bangladesh Attorney General A.F. Hassan Ariff acknowledged the widespread abuse of section 54 at a conference organized by Odhikar in February 2002. Ariff stated: “In most cases, the arrests [under section 54] are frivolous and there are no specific charges against the arrested persons.”³⁶

On April 7, 2003, the High Court of Bangladesh ruled in a case brought by three Bangladeshi human rights organizations after the death of a man in police custody in July 1998. The ruling required the government to amend within six months several provisions of the Code of Criminal Procedure that govern detention and interrogation, including section 54, in order to provide safeguards against their abuse. The ruling also set forth fifteen procedural requirements to be applied to the same provisions until the time that the provisions are amended. These requirements include that arrestees must be informed of the reason for arrest within three hours of being arrested and that magistrates should take punitive actions against police officers that make baseless arrests or commit torture.³⁷

Another law that may facilitate police abuse in Bangladesh is the Special Powers Act of 1974, which provides for preventive detention and has often been used by sitting governments to detain political opponents. Several governments, including the Bangladesh National Party (BNP)-led government in power as of this writing, have promised to repeal the Special Powers Act but instead used it to jail opponents.³⁸ The BNP-led government did, however, repeal the 2000 Public Security Act, which had been used for similar purposes.³⁹

Alongside the authority exercised by the police is an extralegal locus of power held by thugs throughout Bangladesh. These thugs are commonly termed mastans. Their present ascendance can be traced in part to the nature of party politics in the country since 1990. Bangladesh was largely under military rule from 1975, when the independence leader Sheikh Mujib was assassinated, until 1990. Two leaders ruled for the majority of this period: Major General Ziaur Rahman from 1976 to 1981 and General Hussain Mohammad Ershad—who was the

³³ Odhikar, “Abuse of Section 54 of the Code of Criminal Procedure,” July 2001, p. 6.

³⁴ Ibid, p. 8. The shelter homes referred to here include vagrancy homes, which will be discussed further in the chapter on female sex workers.

³⁵ Ibid.

³⁶ “Abuse of power by police must stop,” *The New Nation*, vol. 2, no. 480, February 8, 2002.

³⁷ “Detention on suspicion made illegal: High Court issues 15-point directive on lawmen,” *Daily Star*, vol. 3, no. 1282, April 20, 2003. In addition to section 54, the ruling required amendment of sections 167, 176, 202, 330, and 348 of the Code of Criminal Procedure. Ibid. Human Rights Watch has not yet obtained a written copy of the ruling at the time of this writing.

³⁸ Asia-Pacific Human Rights Network, “Dealing with Dissent: The ‘Black Laws’ of Bangladesh,” October 11, 1999 [online], <http://www.hrdc.net/sahrdc/hrfeatures/HRF08.htm> (retrieved January 13, 2003).

³⁹ “Dhaka Scraps ‘Black Law’,” *Indo-Asian News Service* [online], In Brief, January 18, 2002, <http://www.newsindia-times.com/2002/01/18/southasia-brief.html> (retrieved April 1, 2003).

army's chief of staff under Major General Zia—from 1982 to 1990. General Ershad was forced to resign in the wake of a broad opposition movement that brought together civil society groups, students, and both of what are now the major national political parties, the BNP and the Awami League.

Since 1990, the BNP and the Awami League have alternated holding power in what is ostensibly a parliamentary system with elections every five years: the BNP ruled from 1991 to 1996, the Awami League ruled from 1996 to 2001, and the BNP regained power in coalition with two smaller parties in 2001. However, since the 1991 election, which was considered by many observers to be free and fair, the two subsequent elections have been marred by violence and alleged rigging, and neither was accepted by the party that was deemed to have lost.⁴⁰ The Awami League began to boycott parliament in 1994 in protest of what it claimed were rigged municipal elections and parliamentary by-elections; this eventually led to the dissolution of parliament and the administration of a new election by a caretaker government. The BNP often boycotted parliament and called prolonged strikes during the Awami League's rule from 1996 to 2001, and the Awami League in turn boycotted parliament for the first nine months after the 2001 elections. According to political scientist Rounaq Jahan, the political parties have “failed to demonstrate their willingness to abide by the rules of democratic competition.”⁴¹ Over the course of their clashes, both parties have employed mastans for several purposes: to carry out their misdeeds, to hector people into supporting them, and to enforce mass strikes.

Former Indian Foreign Secretary Muchkund Dubey described the rise of mastans this way:

In order to carry out this [lawless, oppositional] kind of politics and also to serve other narrow and selfish political, personal and sectarian interests, the political parties have pressed into service undesirable elements of society. A whole new genre of such elements has surfaced and is ravaging peace and law and order. They are known as mastans.⁴²

Their connections to political parties, in turn, make it possible for the mastans to engage in crime and extortion with impunity. According to political scientist M. Rashiduzzaman, “The fear of being caught and punished does not deter [the mastans] as long as they have connections in higher places. A classical patron-client bond dominates the nexus. In return of their support, the politicians protect the friendly mastans and their followers who make a living by unlawful activities.”⁴³

As the power of mastans has grown in Bangladeshi society, the term “mastan” has come to be used somewhat loosely. There can be several layers of mastans lower in clout from those who have direct political connections, and other people are called mastans who may have no connection to political figures. Rashiduzzaman wrote: “The term mastan nowadays has no firm meaning except connoting a thuggish character.”⁴⁴ Some of the abuses reported here as being committed by mastans were committed by men who would fit under a narrow definition of politically affiliated thugs; in other instances, witnesses used the word to refer more broadly to fearsome criminals.

Law and order was one of the central issues in the 2001 national elections, and the BNP-led government promised to crack down on mastans and restore peace. Citing the ineffectiveness of the police, Prime Minister Khaleda Zia mobilized the army in October 2002 to fight domestic crime.⁴⁵ Because Bangladesh has experienced

⁴⁰ See, for example, Syed Serajul Islam, “Elections and Politics in the Last Decade of the Twentieth Century in Bangladesh,” in *Thirty Years of Bangladesh Politics*, Mahfuzul Chowdhury ed., (Dhaka: University Press, 2002), pp. 135-145.

⁴¹ Rounaq Jahan, *Bangladesh: Promise and Performance* (London: Zed Books Ltd.), p. 29.

⁴² Muchkund Dubey, “Bangladesh: transformation and turmoil- II,” *The Hindu*, March 29, 2001. See also Jahan, *Bangladesh: Performance and Promise*, p. 28: “Despite rhetorical commitment and prolonged struggles to establish democracy, the political parties have failed to establish a consensus over the ground rules for democratic competition and dissent. They have relied heavily on money and mastans (muscle men) to mobilize support and capture votes.”

⁴³ M. Rashiduzzaman, “The unholy nexus between mastans and politicians,” *Holiday*, June 21, 2002, p. 1.

⁴⁴ Ibid.

⁴⁵ Prime Minister Zia explained the mobilization of the army to a group of senior journalists on October 22, 2002. According to the *Daily Star's* paraphrase, “[Zia] said help of the armed forces was sought in conducting joint drives to contain criminal

numerous military coups and has been under military rule for fifteen of the thirty-two years since independence, the domestic mobilization of the military worried human rights activists and others concerned with the preservation of democracy. On the other hand, many Bangladeshis welcomed any relief from the day-to-day exploitation of mastans.⁴⁶ The army campaign, which the government called Operation Clean Heart, did in fact result in many serious human rights abuses. At least forty people died in army custody before being charged, often within twenty-four hours of arrest, and without explanation.⁴⁷ Also, the government did not exclusively target mastans during the campaign; several opposition leaders and journalists were among the thousands arrested. Saber Hossain Chowdhury, the political secretary of the opposition Awami League, and journalist Shahriar Kabir, for example, were arrested along with several others in December 2002 after a series of bomb blasts in movie theaters in Mymensingh. Both men were “preventatively detained” under the Special Powers Act. Kabir was released on January 7, 2003 and Chowdhury was released on January 12.⁴⁸

Operation Clean Heart was declared over and troops were withdrawn on January 9, 2003. Parliament approved an ordinance in February that immunizes soldiers, police officers, and government officials from prosecution in the public courts for abuses that occurred during the campaign.⁴⁹ Soldiers were sent back into the streets on February 18, 2003, though it was announced that the army would simply assist the police in anticrime efforts and not take suspects into its own custody.⁵⁰

These three loci of power form the backdrop of order and disorder in Bangladesh: the police, who are widely corrupt and brutal; the mastans, whose criminal activity is traditionally protected by force and by political connections; and the army, which was mobilized to crack down on mastans when the police proved incapable of doing so. The research for this report was conducted in December 2002, during Operation Clean Heart. A few witnesses reported to Human Rights Watch that abuses by mastans were less frequent since the army’s mobilization, but the research overall demonstrates that violence and exploitation by both the police and mastans continued to be rampant. Police and mastans are the primary perpetrators of the abuses documented here, but the report does document some abuses committed by the army against sex workers.

Sexual Violence

Among the types of abuse that police and mastans commit, specifically against sex workers and men who have sex with men, rape is one of the most frequent and severe. In this respect as well, the experiences of sex workers and men who have sex with men are extreme but not unique to them: sexual violence is a wider, endemic problem in Bangladesh society. Reliable data on the occurrence of rape in Bangladesh is scarce, in part because the crime often goes unreported. But Social Watch, an international NGO network monitoring social development, stated in its 2002 report that “[v]iolent crime is a growing problem in Bangladesh and women are more often than men its victims Rape seems to be the most frequent type of violence against women.”⁵¹ *Human Rights in Bangladesh 2000*, published by the human rights organization Ain o Salish Kendra (ASK),

acts throughout the country in view of lack of adequate logistic strengths of the police.” “PM explains legality of army drive,” *Daily Star*, vol. 3, no. 1112, October 23, 2002, p. 1.

⁴⁶ According to the BBC, for example, “While many Bangladeshis fed up with the daily threat of crime have welcomed the army’s involvement, concerns have been expressed about the detention of prominent members of the opposition and the deaths in custody of at least 12 people.” Alastair Lawson-Tancred, “Bangladesh Crime Fight,” *BBC News World Edition*, November 1, 2002.

⁴⁷ Amnesty International, “Bangladesh: Indemnity Bill- A Human Rights Challenge for Parliament,” Amnesty International Press Release, January 24, 2003; Asia-Pacific Human Rights Network, “Operation Clean Heart: Bangladesh’s Dirty War,” October 11, 1999 [online], <http://www.hrdc.net/sahrdc/hrfeatures/HRF72.htm> (retrieved January 13, 2003).

⁴⁸ “Shahriar, Shafi Freed,” *Daily Star*, vol. 3, no. 1185, January 8, 2003, p. 1; “Saber released,” *Daily Star*, vol. 3, no. 1190, January 13, 2003, p. 1. Kabir was also detained for two months and allegedly tortured in 2001-2002 after being arrested in November 2001 on sedition charges. “Shahriar, Shafi Freed,” *Daily Star*, vol. 3, no. 1185, January 8, 2003, p. 1. Chowdhury was also detained for a month in October-November 2002 under the Special Powers Act after being arrested in October 2002 on charges relating to an attack on Prime Minister Zia’s motorcade. “Saber sent to jail on detention,” *Daily Star*, vol. 3, no. 1118, October 29, 2002, p. 1.

⁴⁹ “Immunity for actions during anti-terror drive,” *The Hindu*, February 27, 2003.

⁵⁰ “Troops Resume Dhaka Crime Fight,” *BBC News World Edition*, February 18, 2003.

⁵¹ Atiur Rahman and Ismail Hossain, “Birds in a Larger Cage,” Social Watch Bangladesh Report, 2002.

reported that “[a]ccording to Government statistics alone, one woman is subject to violence every hour in Bangladesh. Out of every twenty-four crimes of violence committed per day, ten are of rape.”⁵²

Even when rape is reported, perpetrators are systematically underpunished. According to a UNDP report, “Human Security in Bangladesh:” “Of 1,363 reported cases of rape in 1996, 692 were charge-sheeted [i.e., a suspect was charged with the crime]; the accused were acquitted in 28 cases, and only 9 cases ended in conviction. Most of the remaining cases are pending in the courts. This rate of convictions for violence against women is much lower when compared to the average rate of convictions (70 percent of all cases in the country).” The report attributes the lack of convictions to improper and ineffective investigations by the police.⁵³ Other reasons for the failure to punish rape are lack of awareness of the law and lack of resources to make use of the legal system. Saira Rahman, reporting on the research of the Bangladeshi human rights organization Odhikar, asserted that “[u]sually money and muscle are the reasons why the crime [of rape] goes unpunished. In most of the investigations conducted by Odhikar, the victim’s family was too poor and ignorant of the law to seek legal recourse.”⁵⁴

Perhaps connected to the broad impunity for rape is the phenomenon, found in Bangladesh as well as many other countries, of blaming the victim. University of Pennsylvania Professor Dina Siddiqui has discussed this attitude in relation to sexual harassment in Bangladesh, arguing that “the efficacy of laws will be constantly undermined if social attitudes, especially widespread cultural tendencies of blaming the victim in cases of sexual harassment, are not transformed.”⁵⁵ The same attitude is illustrated by the story of Khalifa L., who was one of a number of sex workers who told Human Rights Watch of having been raped before they became sex workers. Khalifa F. said she was first raped at age fourteen. She was restrained and raped for three days by the sons of the household in which she was working as a domestic servant. She returned home after the incident, but her parents beat her when they found out she had been raped. Boys in her village, meanwhile, expected her to have sex with them because she had been raped; when she refused, they caught her in a field and raped her. It was after all of this, at the age of fifteen, that Khalifa F. was convinced by a friend to take up sex work. Her friend told her she was “already spoiled” and asked her what other possibilities there were.⁵⁶

Legal Framework

The human rights abuses documented in this report are abductions, rapes, beatings, extortion, and arbitrary arrests. All of these are prohibited by both Bangladeshi and international law. Abduction is prohibited by section 362 of the Bangladesh Penal Code.⁵⁷ Rape is prohibited by section 375 of the Bangladesh Penal Code⁵⁸ and by the 2000 Suppression of Violence against Women and Children Act; the latter defines rape as sexual intercourse without consent.⁵⁹ However, both laws are written in gender-specific terms and do not explicitly prohibit rape against men.⁶⁰ Physical assault is barred by sections 321 to 326 of the Bangladesh Penal

⁵² Ain o Salish Kendra, *Human Rights in Bangladesh 2000* (Dhaka: 2001), p. 132. ASK also collected reports of incidents of violence against women from ten national newspapers. ASK sorted the reports into six types of violence. Among these six, rape was the single most frequently reported crime, accounting for 47 percent of the incidents reported. *Ibid.*, p. 133.

⁵³ UNDP, “Human Security in Bangladesh” (Dhaka: September 2002), pp. 107-108.

⁵⁴ Saira Rahman, Odhikar, “Reflections on Women and Violence in Bangladesh,” *Asia-Pacific News*, Hurights Osaka, no. 24, June 2001.

⁵⁵ Dina M. Siddiqui, “Sexual Harassment and the Public Woman,” *Daily Star Weekend Magazine*, vol. 1 no. 48, March 29, 2002.

⁵⁶ Human Rights Watch interview with Khalifa F., Dhaka, December 14, 2002.

⁵⁷ Section 362, Bangladesh Penal Code. “Kidnapping” under Bangladeshi law only pertains to children.

⁵⁸ Section 375, Bangladesh Penal Code.

⁵⁹ Human Rights Watch interview by telephone with human rights lawyer Hossain Shaheid Sumon, Dhaka, March 5, 2003. The Suppression of Violence against Women and Children Act has not been translated into English as of this writing.

⁶⁰ *Ibid.*

Code. Section 322, for example, prohibits the voluntary causing of “grievous hurt.”⁶¹ Section 383 of the penal code prohibits extortion, which it defines as the extraction of valuables on threat of injury.⁶²

Article 33 of the Bangladesh Constitution requires that any person who is arrested must be informed as to the grounds for arrest, allowed access to a lawyer, and brought before a magistrate within twenty-four hours of the arrest. Clause 3 of article 33 stipulates that the article 33 requirements do not apply to a person detained under a law providing for preventive detention, such as the Special Powers Act.⁶³ However, none of the arrests documented in this report involved a charge under the Special Powers Act. More generally, article 32 of the Constitution provides: “No person shall be deprived of life or personal liberty save in accordance with law.”⁶⁴

The same abuses are also in violation of Bangladesh’s commitments under international law. Article 9.1 of the International Covenant on Civil and Political Rights (ICCPR), to which Bangladesh acceded in 2000, provides that: “Everyone has the right to liberty and security of person.” Article 7 of the ICCPR states that no one “shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”⁶⁵ All of the abductions, rapes, beatings, extortion, and arbitrary arrests documented here violate the right to physical integrity. Many of them can be characterized as cruel, inhuman, or degrading treatment, and some of those incidents committed by the police constitute torture.⁶⁶ Rape and other forms of sexual violence, for example, have been recognized as forms of torture when they are intentionally inflicted on a victim by an official or with official instigation, consent, or tolerance for purposes such as intimidation, coercion, punishment, or eliciting information or confessions or for any reason based on discrimination of any kind. This includes, of course, torture on the basis of gender discrimination.⁶⁷

The ICCPR also lays out several specific, affirmative requirements for the conduct of arrests and criminal prosecution. Article 9.4 provides that “[a]nyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.” Article 9.5 requires “an enforceable right to compensation” for anyone “who has been victim of unlawful arrest or detention.”⁶⁸ Article 14 requires, among other things, that every arrestee be “informed promptly and in detail . . . of the nature and cause of the charge against him.”⁶⁹

⁶¹ “Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said ‘voluntarily to cause grievous hurt.’” Section 322, Bangladesh Penal Code.

⁶² “Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits ‘extortion.’” Section 383, Bangladesh Penal Code.

⁶³ Article 33, Constitution of the People’s Republic of Bangladesh.

⁶⁴ Article 32, Constitution of the People’s Republic of Bangladesh.

⁶⁵ The International Covenant on Civil and Political Rights, G.A. Res. 2200 (XXI), 21 U.N. GAOR Supp. (no. 16), U.N. Doc A/6316 (1966) (entered into force March 23, 1976, acceded to by Bangladesh, September 6, 2000), art. 7.

⁶⁶ The Convention Against Torture and Other Cruel Inhuman and Degrading Treatment or Punishment, which has not yet been ratified by Bangladesh, defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person . . . when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” The Convention Against Torture and Other Cruel Inhuman and Degrading Treatment or Punishment, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (no. 51) at 197, U.N. Doc. A/39/51 (1984) (entered into force June 26, 1987), art. 1.

⁶⁷ See International Criminal Tribunal for the former Yugoslavia, *Celebici Judgment: Prosecutor v. Delalic and Others*, Case No. IT-96-21-T (November 16, 1998). In 1992, the U.N. Special Rapporteur on Torture noted, “Since it was clear that rape or other forms of sexual assault against women in detention were particularly ignominious violations of the inherent dignity and the right to physical integrity of the human being, they accordingly constituted an act of torture.” U.N. Doc. E/CN.4/1992/SR.21, para. 35. Report by the Special Rapporteur, P. Kooijmans, appointed pursuant to Commission on Human Rights resolution 1985/33, U.N. Doc. E/CN.4/1986/15 (February 19, 1986), p. 29.

⁶⁸ ICCPR, art. 9(4)-9(5).

⁶⁹ ICCPR, art. 14(3)(a).

The abuses committed by mastans that are reported here are not direct actions of the state, although the failure of the government to punish mastans for their abuses may be due in part to mastans' political affiliations. Nonetheless, article 2 of the ICCPR requires all state parties to the agreement to "ensure to all individuals within its territory . . . the rights recognized in the present Covenant."⁷⁰ This obligates any state party to the agreement to protect its citizens from violations of their rights by non-state actors like mastans. Article 2 also requires that any persons whose rights under the agreement are violated be granted an "effective remedy."⁷¹

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to which Bangladesh acceded in 1984, requires state parties to ensure "without delay" that any "act or practice of discrimination against women" be stopped.⁷² In a 1993 resolution, the U.N. General Assembly declared that prohibiting gender discrimination includes eliminating gender-based violence and that states "should pursue by all appropriate means and without delay a policy of eliminating violence against women."⁷³ The CEDAW Committee has enumerated a wide range of obligations of states related to combating sexual violence, including ensuring appropriate treatment for victims in the justice system, counseling and support services, and medical and psychological assistance to victims.⁷⁴

Two nonbinding General Assembly resolutions, the Code of Conduct for Law Enforcement Officials and the Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment, indicate international norms regarding police behavior. Article 2 of the Code of Conduct for Law Enforcement Officials states: "In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons."⁷⁵ Principle 1 of the Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment sets forth the same idea in relation to detention and imprisonment: "All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person."⁷⁶ Violence by the police, including the abductions, rapes, and beatings documented in this report, is never acceptable. Under specific circumstances, however, police may use force to defend self or others from harm. Article 3 of the Code of Conduct sets limits on the use of force: "Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty."⁷⁷ And article 7 proscribes corruption: "Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts."⁷⁸

⁷⁰ ICCPR, art. 2(1).

⁷¹ ICCPR, art. 2(3).

⁷² CEDAW, art. 2(d).

⁷³ United Nations General Assembly, "Declaration on the Elimination of Violence against Women," A/RES/48/104, December 20, 1993 (issued on February 23, 1994), art. 4.

⁷⁴ Committee on the Elimination of All Forms of Discrimination Against Women, "Violence Against Women," General Recommendation no. 19 (eleventh session, 1992), U.N. Document CEDAW/C/1992/L.1/Add.15.

⁷⁵ Code of Conduct for Law Enforcement Officials, G.A. Res. 34/169, annex, 34 U.N. GAOR Supp. (no. 46) at 186, U.N. Doc. A/34/46 (1979), art. 2.

⁷⁶ Body of Principles for the Protection of All Persons Under any Form of Detention and Imprisonment, G.A. res. 43/173, annex, 43 U.N. GAOR Supp. (no. 49) at 298, U.N. Doc. A/43/49 (1988), prin. 1.

⁷⁷ Code of Conduct for Law Enforcement Officials, art. 3.

⁷⁸ *Ibid.*, art. 7.

V. ABUSES AGAINST WOMEN SEX WORKERS

Jahan H. is originally from a village in Barishal Division. Her father left her family when she was young, and she came with her mother, brother, and sisters to Dhaka to find work in the garment industry. When she was fourteen, a woman at the garment factory where she worked told her she was going to bring her to a better-paying job and instead sold her to a madam at Kandupatti brothel in old Dhaka. After two years at Kandupatti, Jahan H. married one of her clients and fled the brothel with him. But her husband married another woman in Japan and his parents kicked her out of their house because she had been a sex worker. She then joined another brothel and after six months married another client. That second husband turned out to be a drug addict, and did not provide financial support for her or their two children. He introduced her to hotel-based sex work, in which she engaged throughout their marriage. She divorced her husband in 2002. When Human Rights Watch met Jahan H. in December 2002, she was twenty-six years old. She was taking care of her son and daughter, working as a hotel-based sex worker, and working as a peer educator with an AIDS prevention organization.

She said that in mid-September 2002, she was abducted for forty-eight hours by a police officer and repeatedly beaten and raped.

Police have a special room in Hotel Sonar Bangla for sex. He took me there and beat me with a belt . . . He raped me seven times and had sex in different styles. I refused to have anal sex, and he beat me. There were three other people who joined him during the two days I was with him. They also forced me to have sex with them. These were influential people – local mastans.

She was not allowed to leave the room for two days. The officer gave her food—some *paratha* (a flatbread)—once during the two-day period. She said she was raped two to three other times by police officers in 2002.

Jahan H. was aware of the risks of HIV/AIDS and other sexually transmitted diseases. She asked the police officer who raped her in September to use a condom but he refused. He told her, “I am free of all diseases, I don’t care about these things.” In December 2001, she asked another police officer who was about to rape her to use a condom. He replied: “Why should I use a condom with you, you whore? You are not my wife. I don’t care about your children.”

She said that in her experience in Dhaka, police had agreements with hotel owners whereby, once each month, police officers would visit the hotels to collect an “insurance” payment from the hotel owners and to rape the sex workers in the hotel. She said that other times, the police would arrest sex workers to extort money from them.

[P]olice would come to hotels, arrest sex workers and their clients, and demand a big amount . . . and threaten to take them to jail if they didn’t pay. The last time this happened to me was . . . roughly November or December 2001, at Hotel Sonar Bangla. The police arrested me with three other sex workers and demanded 10,000 Tk. [U.S.\$172.41]⁷⁹ per woman, else they would have us sent to a vagrancy home. The police took us to the police station and beat us, called us whores. The hotel manager helped pay the police for me as a loan. I then sold everything I could, my television set, my bed, my saris, my *salwar kameezes* (long tunics over trousers), even some of my ornaments,⁸⁰ to repay the loan.

She also said she was gang-raped by mastans in mid-2002.

⁷⁹ The conversion rate used throughout this report is U.S.\$1 to Bangladesh Tk. 58.

⁸⁰ In many places in South Asia, a woman’s jewelry is the one asset over which she has complete control, and represents her security.

When I was leaving the hotel, some mastans forced me to go to [a warehouse]. Seven to eight men were there altogether. They were drinking and one by one they raped me the entire night. I tried to get them not to rape me by saying I was sick with syphilis and they might get something.

All the men raped her despite her attempts to resist. She continued:

Mastans rape me frequently. I can sometimes get them to use condoms, but they never pay for sex. Before the army raid, they raped me once a week, and whenever they knew I was staying in the hotel overnight, but it is less frequent since the army raid.⁸¹

In addition to the police and mastans, Jahan H. faced discrimination from ordinary citizens. She told Human Rights Watch that whenever residents in a neighborhood she was living in found out she was a sex worker, her children were harassed and ostracized. Once word was out, she moved. "This happens sometimes after five months, sometimes after two months; whenever they know I have to move." She said she had moved a total of ten times within Dhaka. Her children had to switch schools each time. For this reason, and also because the children are left alone when she is arrested, she said she wished the government would provide a hostel for sex workers' children where they could be stable and safe.

Reflecting on her experiences, Jahan H. said, "I am a woman. I have a right to live like other women. But my identity is as a sex worker and not as a human being. No one likes me, everybody hates me." At another moment, she spoke for herself and her peers: "We don't want to be treated as whores, but as workers. We work hard every day. It's our right to say don't harm us or abuse us."⁸²

Jahan H.'s experiences are not unusual. Women sex workers in Bangladesh face severe violence and exploitation. Both police and mastans abduct sex workers, rape them, beat them, and extort from them. Although some forms of sex work are illegal under Bangladeshi laws, the detention and arrest of sex workers is often for the purpose of the same kinds of abuse—rape, beatings, and extortion—rather than law enforcement. In December 2002, police officers and townspeople, in the presence of soldiers and army officers, violently and illegally evicted a brothel in a town southwest of Dhaka. Sex workers have no effective means of making official complaints about the various violations they experience. The police also beat and arrest those sex workers working as HIV/AIDS peer educators. Moreover, all of this mistreatment by police and mastans takes place within a context of wider social discrimination and stigma against sex workers, who with their families are generally reviled and demeaned. The actions of police, mastans, and society at large amount to a broad assault on the dignity of these women. One effect of this dehumanization is that it greatly compromises Bangladesh's capacity to fight against HIV/AIDS.

Reliable quantitative information about sex workers is scarce, in part because sex workers are so marginalized. USAID reported in 2001 that "sex workers in Bangladesh are thought to total around 100,000."⁸³ The experiences of women sex workers vary somewhat according to the venue of their work. The three primary venues are streets, hotels, and brothels. Human Rights Watch's research focused on street- and hotel-based sex workers. Street-based sex workers, sometimes also referred to as "floating" sex workers, generally contact their clients on the street, often in specific areas established by custom for that purpose. They engage in sex with their clients wherever they are able—sometimes in a park, for example, sometimes in a client's home. Hotel-based sex workers meet and serve their clients in hotels. Hotel managers often act as brokers or pimps, giving the sex workers a fixed amount of money per sex act. Other sex workers sell sex from their own homes or by visiting the homes of clients who contact them by phone. There is some fluidity and overlap among these various categories. Human Rights Watch interviewed street-based sex workers in Dhaka and Sylhet and hotel-based sex workers in Dhaka and Rajshahi.

⁸¹ The army raid Jahan referred to was a part of Operation Clean Heart, which will be discussed further below.

⁸² Human Rights Watch interview with Jahan H., Dhaka, December 12, 2002.

⁸³ USAID, "HIV/AIDS in Bangladesh and USAID Involvement" [online], http://www.synergyaids.com/documents/2976_Bangladesh_brief_rev2.pdf (retrieved June 5, 2003), p. 1.

The lives of brothel-based sex workers are distinct from the others. Brothels are large complexes of huts or houses where women live, raise their children, and receive clients.⁸⁴ Because the brothel is a self-contained space run by sex workers, it can provide some protection from violence.⁸⁵ But for the same reason, working in a brothel means a stark segregation from mainstream society. Women who live and work in brothels are “categorically rejected by the *samaj* (the moral community).”⁸⁶ In Tangail, Dhaka Division, where Human Rights Watch visited a brothel, sex workers were forbidden until the year 2000 from wearing shoes or salwar kameezes (which are considered modern apparel in contrast with the sari) outside the brothel. In part because several brothels have been shut down over the past few decades, “the total number of formal brothel sex workers in Bangladesh is diminishing.”⁸⁷ All of the discussion below pertains to street- and hotel-based sex workers except the section on the eviction of the brothel in Magura.

Sexual Violence and Other Physical Abuse

Many sex workers reported being abducted, raped, and beaten regularly by police officers. Twenty-year-old Durga R., a street-based sex worker, said that in the months before she spoke with Human Rights Watch, police forced her to have sex at least twice every month.⁸⁸ “In the past year, the police have forced me to have sex with them so many times that it is difficult to count the number of times this has happened. Police never pay for sex and never use condoms.” She said that the police beat her “[a]lmost each and every night.”⁸⁹

Lani N., also twenty, told Human Rights Watch that she was raped by police officers three times in 2002. One of these rapes occurred in June 2002, when a police officer out of uniform abducted her off the street: “I was going to a customer’s house at around 11:00 or 11:30 p.m. and a policeman in civil dress caught me and took me to a house of another policeman. Four to five policemen forced me to have sex with them. They paid me 50 Tk. [U.S.\$0.85] in total and used condoms.”⁹⁰

Khalifa L., eighteen, said she was arrested at a Dhaka hotel and subsequently abducted on November 25, 2002.

I was taken to the *thana* [police station] and kept there for twelve hours. A policeman took me from the thana to his house Another officer and two civilians came to the house and the four men raped me and beat me. They kicked me and slapped me all over my body. The policeman threatened to send me to a vagrancy home; when I protested, I was beaten more.

She said that she was bleeding from the vagina after the incident.⁹¹

⁸⁴ Anthropologist Therese Blanchet described a brothel in Daulotdia, Dhaka Division, this way: “Daulotdia brothel is a large rural village of bamboo huts The prostitutes are distributed in about 350 homesteads (*bari*) each consisting of a number of rooms (generally six to ten) built around a courtyard. Each prostitute has her own room where she lives and entertains clients. The homestead heads are always women (*bariwalli*), most of whom maintain more or less stable conjugal unions with male partners who are called *bariwalla*.” Therese Blanchet, *Lost Innocence, Stolen Childhoods* (Dhaka: University Press Limited, 1996), p. 124.

⁸⁵ See, for example, Carol Jenkins and Habibur Rahman, “Rapidly Changing Conditions in the Brothels of Bangladesh: Impact on HIV/STD,” *AIDS Education and Prevention*, vol. 14 (2002), Supplement A, p. 102: “The brothel system ordinarily works to reduce violence against sex workers by paying off police and mastans.”

⁸⁶ Blanchet, *Lost Innocence*, p. 27.

⁸⁷ AIDS and STD Control Program, Directorate General of Health Services, Government of Bangladesh, “Report on the Second National Expanded HIV Surveillance” (Dhaka: 2000), p. 29.

⁸⁸ Sex workers often used the phrase “sex by force” (*jhore se*) and that word choice is reflected in this report. Sex by force constitutes rape under Bangladeshi and international law because it is sex without consent. See, for example, Section 375, Bangladesh Penal Code; *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Sec. 6.4 (defining rape as “a physical invasion of a sexual nature, committed on a person under circumstances which are coercive”).

⁸⁹ Human Rights Watch interview with Durga R., Dhaka, December 17, 2002.

⁹⁰ Human Rights Watch interview with Lani N., Sylhet, December 24, 2002.

⁹¹ Human Rights Watch interview with Khalifa L., Dhaka, December 14, 2002.

Silpi C., thirty-five and a street-based sex worker, told Human Rights Watch that “[s]ometimes police call to me and force me to have sex with them without pay or condoms.” She recounted an incident from November 2002. “One of the policemen asked me to come to the police station. I was afraid that if I refused, I would be taken to court, so I went to the station.” At the station, ten police officers forced her to have sex with them between 11:00 p.m. and 3:00 a.m. on a Friday night. “They were drunk and tried to have anal sex with me. Other policemen stopped them from forcing me to have anal sex. I asked the policemen to use condoms, but they said that they didn’t feel comfortable using condoms and refused to do so.”⁹²

When Layla Y., twenty-eight, resisted being raped by police, she was beaten and held captive. “One night, three police officers came to my hotel room and asked for sex. I was sleepy and refused. They started to beat me, especially on the face, and locked me in the room overnight.” The hotel managers released her from the room in the morning, and she visited a doctor. Layla Y. said she ended up spending 2500 Tk. [U.S.\$43] on treatment and missing eight months of work because of her injuries and that her right eye never healed. She said she still experienced frequent headaches, including when she read or watched television, and that she was no longer able to do any fine work such as sewing.⁹³

Khalifa L. was detained in a police station and then abducted and brought to an officer’s house to be raped; Silpi C. was brought to a police station and raped there. These are examples of ways in which the police exploit the power that comes with their positions, whether or not they make formal arrests. In the case of hotel-based sex work, police sometimes strike agreements with hoteliers whereby the police agree not to enforce the law in exchange for the right to rape the hotel’s sex workers. Sadin D., twenty-five, described her experience with police rape this way:

Police often force me to have sex with them The one time that I refused, the police said, “I’ll see you later on. You are a *khanky magi* [a slang term meaning dirty whore]. I’ll fuck your mother too” . . . the police [officer] told the hotel staff that I was refusing to have sex with him and he wanted to have sex with me. The hotel manager told me that I must have sex with the policeman because the hotel cannot run its business otherwise. I then had sex with the policeman.⁹⁴

Many of the sex workers who spoke to Human Rights Watch reported suffering frequent beatings and rapes by mastans. Several of the rapes by mastans that they recounted were gang-rapes. Lani N., twenty-two, said that in December 2001, she “was taken by bus out of town and raped all night by thirty-five people.” She was abducted again in late 2002: “I was taken by bus to a place where I was raped by twenty or twenty-two men. I protested and I was beaten.” Lani N. said that after the 2002 gang-rape, she was “very weak and fainted and also fainted a few days later at the train station.”⁹⁵

Silpi C. also reported being raped and abducted by mastans, including by a gang in 2002.

Mastans drive up with their baby rickshaws and their motorcycles. They approach and strongly say to come with them. If I refuse, they take me by force. They then drive to a hilly area or to a tea garden and force me to have sex with them. [In early 2002,] mastans took me to a tea garden and fifteen to twenty men forced me to have sex with them throughout the night. Sometimes they went one by one; sometimes, one person would have sex with me two or three times.⁹⁶

⁹² Human Rights Watch interview with Silpi C., Sylhet, December 24, 2002.

⁹³ Human Rights Watch interview with Layla Y., Dhaka, December 12, 2002.

⁹⁴ Human Rights Watch interview with Sadin D., Rajshahi, December 18, 2002.

⁹⁵ Human Rights Watch interview with Lani N., Sylhet, December 24, 2002.

⁹⁶ Human Rights Watch interview with Silpi C., Sylhet, December 24, 2002.

Sara R., thirty, told of a gang-rape on June 24, 2002. "Some drunkards saw me going home by rickshaw. I showed them my ID card [from the AIDS awareness organization she was working with] but they tortured⁹⁷ me. They took from me the 200 Tk. [U.S.\$3.45] I had." She asked the men to let her go, "Brother, I am going home after my duty." But instead of leaving, "[t]hey forced me to have sex. They threatened to beat me. Four to five people held me down and forced me."⁹⁸

The constant threat of violence can render sex workers' lives unstable. Eighteen-year-old Hava V. told this story:

Some time ago, I was standing with two other sex workers at about 10 p.m., in the road. A mastan came with a flower and gave it to me. He then attacked me and said that he would catch me and throw acid on me.⁹⁹ He asked for my address and said that he would go there. I said that I was living on the side of the road and ran away. The next day, the mastan returned and took 100 Tk. [U.S.\$1.72] from me. I left for [a town outside of Sylhet] and was attacked there by two mastans. I then left there and now live in Sylhet city, near the downtown area. I always fear violence by police, *madrassa* [a religious school] students, and mastans and I am always trying to live in a safe place.¹⁰⁰

Whereas police exploit their legal authority when they commit abuses against sex workers, mastans draw on their physical force, including weapons, and their status as fearsome, well-connected criminals. Several sex workers reported fearing for their lives. In December 2002, Hava V. told Human Rights Watch that "[r]ecently, a mastan affiliated with the Awami League put a pistol to my head and forced me to have sex with him."¹⁰¹ Khalifa L. said that she was raped by mastans eight to ten times between June and December 2002. She stated further: "Sometimes I think my life is at risk when this happens and that if I don't allow the mastans to rape me, they will kill me."¹⁰²

Human Rights Watch also received a few reports of rape and other physical abuse committed by soldiers against sex workers. The army was mobilized to fight domestic crime during Operation Clean Heart, which lasted from October 2002 to January 2003. Sex workers often expressed fear of the army, and most said they avoided soldiers as much as possible. Durga R. said she was beaten and raped by soldiers in late 2002.

I have been beaten by the army twice. Once the day before yesterday [December 15, 2002] and once the day before that [December 14, 2002] When they beat me, the soldiers asked me, "Why are you doing this kind of work. Why aren't you doing a good job?" But at the same time they also want sex. Twice, soldiers on duty raped me. [One of these times] [t]here were five or six soldiers altogether. Two raped me and the others raped other sex workers nearby.¹⁰³

Sex workers said they feared and avoided soldiers in part because of the soldiers' reputation for exceptional brutality. Shahnaz Begum, forty, is the co-founder and former president of Durjoy, one of the most established sex worker organizations in Dhaka. She related an incident of torture that she heard from one of the victims, whom she cared for after the incident. Begum told Human Rights Watch:

⁹⁷ The English word "torture" is sometimes incorporated into spoken Bangla. Here, torture is not meant to denote the strict legal definition of the word but rather, roughly, harassment.

⁹⁸ Human Rights Watch interview with Sara R., Sylhet, December 24, 2002.

⁹⁹ Acid attacks are a serious problem in Bangladesh. The Acid Survivors Foundation, which gives assistance to survivors, recorded 485 attacks in 2002. This was a 42 percent increase from the number of attacks reported in 2001, despite the fact that Bangladesh adopted a law to crack down on acid attacks in February 2002. The Acid Survivors Foundation estimated that 80 percent of the attacks were against women. "Bangladesh: Acid attack victims rally in Dhaka," *Asia Human Rights News*, March 10, 2003 [online], http://www.ahrchk.net/news/mainfile.php/ahrcnews_200303/2791/ (retrieved May 27, 2003).

¹⁰⁰ Human Rights Watch interview with Hava V., Sylhet, December 24, 2002.

¹⁰¹ Ibid.

¹⁰² Human Rights Watch interview with Khalifa L., Dhaka, December 12, 2002.

¹⁰³ Human Rights Watch interview with Durga R., Dhaka, December 17, 2002.

Parliament is a major cruising area. Recently, the army was beating some sex workers and one went to the lake to avoid being beaten. The army saw her and told the other sex workers to go to the lake as well. They ordered the women to stay submerged in the lake, even up to their necks, for the entire night. One worker came to Durjoy the next day with a fever and was cold for three days afterward. Now when the workers see the army, they run fast.¹⁰⁴

In addition to the relative power of the perpetrators, another driving force behind the violence committed by police, mastans, and the army is the broadly held perception that sex workers are less than human—“spoiled,” they are often called—and that they are fundamentally sexually available. In short, the perpetrators act as if sex workers have lost the right to say “no.” Twenty-four-year-old Shathi T. narrated an exchange in which a police officer denied that she could feel pain.

I tell police, “Brother, please do it a little more slowly because I’m feeling pain and if you continue like this then when the next client comes, I won’t be able to have sex with him.” The police say that they can’t do it slowly because they don’t enjoy it that way. They say, “You have sex with a lot of people. Your vagina is not tight, so how can you feel pain? You’re just making this up.” I try to convince them. I say, “I’m also a human being. I also feel pain. Believe me that I feel pain.” Police say, “You’re a sex worker. You’re not a good woman. You don’t feel pain and you’re just lying.”¹⁰⁵

Victims of sexual violence may suffer many harms, including emotional and physical harms. Among these are HIV and other STDs, which can be transmitted through rape. By and large the rapes documented by Human Rights Watch occurred without condoms. Jahan H. and Khalifa L. both asked the police officers that raped them to use condoms; both were refused. Banu N., twenty-seven, reported facing similar refusals. “Police often beat me and rape me. Most don’t want to use condoms. I ask them to use condoms, but most don’t listen to me. I tell police about diseases that you can get without a condom but most don’t care.”¹⁰⁶ Shathi T. also described her attempts to persuade police to use condoms:

Police very often force me to have sex and don’t pay The police never use condoms. If I ask them to, they say that they are not comfortable using condoms, don’t like the way they feel. Police also get angry when I ask them to use condoms. If I try to pressure them to use condoms, they get even angrier and start calling me bad names. There is no way to have sex with condoms with police.¹⁰⁷

Jahan H., Khalifa L., Banu N., and Shathi T. were all involved in organizations of sex workers that conducted HIV prevention activities. They were all aware of the risks of HIV and of the advantages of condom use for their own health and for public health. Rape by police is foremost a violation of their fundamental rights; an additional consequence is that sex workers, no matter what their level of awareness of HIV prevention, can protect neither their own health nor the health of others.

In addition to unprotected sex, another way in which rape may increase the risk of HIV transmission is the physical roughness of forced sex. Genital injuries, including tearing and abrasion of the vaginal wall, increase the likelihood of transmission if the assailant is HIV-positive.¹⁰⁸ Echoing the experiences of Khalifa L. and Shathi

¹⁰⁴ Human Rights Watch interview with Shahnaz Begum, Dhaka, December 10, 2002.

¹⁰⁵ Human Rights Watch interview with Shathi T., Rajshahi, December 18, 2002.

¹⁰⁶ Human Rights Watch interview with Banu N., Dhaka, December 17, 2002.

¹⁰⁷ Human Rights Watch interview with Shathi T., Rajshahi, December 18, 2002.

¹⁰⁸ UNAIDS, “Fact Sheet on Gender-based Violence, Resource Packet on Gender and AIDS” [online], [http://www.unaids.org/gender/docs/Gender percent20Package/GenderBasedViolence.pdf](http://www.unaids.org/gender/docs/Gender%20Package/GenderBasedViolence.pdf). (retrieved March 28, 2003): “In situations of rape, the victim may experience bleeding and tearing of the genital area. This can create passageways for HIV to enter the bloodstream.”

T. above, Shipna B., a hotel-based sex worker, stated: “Police always have sex in such a way that is painful. They lift my legs up and push hard with their penis. It is very painful. Other customers don’t have sex in this way.”¹⁰⁹

The Bangladesh government has recognized the relationship between HIV/AIDS and violence committed by police and mastans against sex workers. With encouragement from NGOs, a question on rape by police and mastans was included in the health ministry’s Second National HIV Surveillance in 1999-2000. Of the street-based sex workers interviewed in central Bangladesh, 60.2 percent reported being raped by men in uniform over the previous year and 50.9 percent reported being raped by mastans in the previous year. In southern Bangladesh, the percentages were similar: 52.1 percent and 40.9 percent respectively.¹¹⁰

Extortion

In addition to committing sexual and physical violence against sex workers, police and mastans often subject sex workers to extortion. Eighteen-year-old Sarifa F., a hotel-based sex worker, explained to Human Rights Watch: “[M]astans don’t leave us alone because they know we are sex workers. They steal our jewelry and our money. Sometimes they take out a knife.”¹¹¹ Beauty T., seventeen, elaborated her experience with extortion by mastans this way:

When I come down from the hotel after working, mastans hijack me. They steal from me. This happened four times in the last two years Sometimes mastans raid hotels with arms and snatch money from clients and sex workers. This happens in the evening, when clients are there. Most recently, last Friday, I lost my gold chain this way. Another time, I lost a ring and a bag that contained money.¹¹²

The police sometimes profit from the extortion committed by mastans. Priya Y., twenty-four, said that sometimes outside a hotel, “[t]he mastans take all our money right in front of the police. The police officer takes a tip from the mastan and doesn’t say anything.”¹¹³ Witnesses said the police also committed extortion themselves, sometimes on the threat of violence and rape. Hava V. said, “I hide my money in my hair and at my waist because I am afraid of the police attacking me and stealing my money. If I don’t give them money, they beat me and rape me.”¹¹⁴

Another tool for police extortion is the threat of arrest. Silpi C. stated: “When sex workers go to a residence in a rickshaw to do sex work, police often stop them and take money from them. The police threaten the sex workers that if they don’t give them money, they’ll arrest them and take them to court.”¹¹⁵ When Human Rights Watch met Silpi C., she had scars on her right hand and on her forehead which she said were the result of a police chase: “The police asked me for money and I ran away. I fell and was unconscious. Someone took me to the hospital. I was unconscious for three days.”¹¹⁶

Arbitrary Arrests

The threat of arrest that Silpi C. barely avoided is sometimes carried out. Indeed, many sex workers reported to Human Rights Watch that they had been arrested, but few if any of those arrests were followed by lawful prosecution. Instead, arrest was often a ruse for committing the very same abuses delineated above—sexual and physical violence, extortion—as well as, in some instances, detention of sex workers in vagrancy homes.

¹⁰⁹ Human Rights Watch interview with Shipna B., Rajshahi, December 18, 2002.

¹¹⁰ AIDS and STD Control Program, Directorate General of Health Services, Government of Bangladesh, *Report on the Second National Expanded HIV Surveillance* (Dhaka: 2000), p. 47.

¹¹¹ Human Rights Watch interview with Sarifa F., Dhaka, December 12, 2002.

¹¹² Human Rights Watch interview with Beauty T., Dhaka, December 12, 2002.

¹¹³ Human Rights Watch interview with Priya Y., Dhaka, December 12, 2002.

¹¹⁴ Human Rights Watch interview with Hava V., Sylhet, December 24, 2002.

¹¹⁵ Human Rights Watch interview with Silpi C., Sylhet, December 24, 2002.

¹¹⁶ Ibid.

The Law on Sex Work

According to a report published by the Ministry of Law, Justice and Parliamentary Affairs, “Prostitution by an adult woman (above eighteen) is not prohibited by any law of the land as yet.”¹¹⁷ Brothel-based sex workers, at least, can be recognized under the law. They can register for licenses with a first-class magistrate court, stating that they are working in the brothel of their own will and are over eighteen.¹¹⁸ But the Dhaka Metropolitan Police Act (DMPA) prohibits soliciting another person in public for the purpose of prostitution, and therefore renders at least some forms of street-based sex work illegal.¹¹⁹ The same provision exists in the Metropolitan Police Acts of the five other divisional towns: Rajshahi, Sylhet, Chittagong, Khulna, and Barisal.¹²⁰ Another law, the Suppression of Immoral Traffic Act (SITA), makes it illegal to keep or manage a brothel, or to buy, sell, or live off of a prostitute. But SITA does not criminalize the sex workers themselves.¹²¹

The Vagrancy Act, like SITA, is a carryover law from colonial rule. The Vagrancy Act even specifies that it only applies to non-Europeans. The law’s original intent was apparently to insulate colonists from a surge of beggars during a famine in the early 1940s.¹²² The act creates a process by which “vagrants” are placed in “vagrancy homes” for the purpose of their “rehabilitation.” A vagrant is defined in the act as:

[A] person not being of European extraction found asking for alms in any public place or wandering about or remaining in any public place in such conditions or manner as makes it likely that such person exists by asking for alms but does not include a person collecting money or asking for food or gifts for a prescribed purpose.¹²³

Sex workers are sometimes confined in such vagrancy homes, but a report published by the Ministry of Law concludes that sex workers do not fall under the Vagrancy Act’s definition of vagrancy.¹²⁴ A 2000 High Court judgment states the same. In 1999, after a complicated fallout between some influential mastans and politicians, the approximately 2500 sex workers in the Tanbazar and Nimtoli brothels were forcibly evicted. Some 300 of these sex workers were detained in vagrancy homes. Human rights groups challenged the evictions and detentions in the High Court. In 2000, the court ruled, among other things, that the evictions violated the right to life guaranteed by article 31 of the Bangladesh Constitution, and that the Vagrancy Act does not support the detention of sex workers.¹²⁵ At this writing, the decision is being reviewed by the Appellate Division of the High Court.

Of all these laws, then, the only one that prohibits sex work in any way is the DMPA (along with the corresponding acts of the other divisional towns), which bars the sale or purchase of sex in public places. In

¹¹⁷ Institutional Development of Human Rights in Bangladesh (IDHRB), “Mapping Exercise on HIV/AIDS- Law, Ethics, and Human Rights” (Dhaka: Ministry of Law, Justice and Parliamentary Affairs, 2002), p. 35.

¹¹⁸ Government of Bangladesh, “Report to the Committee on the Elimination of Discrimination against Women” (1997) [online], <http://www.un.org/esa/gopher-data/ga/cedaw/17/country/Bangladesh/C-BGD3-4.EN> (retrieved June 5, 2003), Sec. 2.5.2; Carol Jenkins and Habibur Rahman, “Rapidly Changing Conditions in the Brothels of Bangladesh: Impact on HIV/STD,” *AIDS Education and Prevention*, vol. 14 (2002), Supplement A, p. 98.

¹¹⁹ Institutional Development of Human Rights in Bangladesh (IDHRB), “Mapping Exercise on HIV/AIDS- Law, Ethics, and Human Rights” (Dhaka: Ministry of Law, Justice and Parliamentary Affairs, 2002), p. 36; Human Rights Watch interview by telephone with human rights lawyer Hossain Shaheid Sumon, Dhaka, March 5, 2003.

¹²⁰ Ibid.

¹²¹ Bengal Act VI, 1933, Sec. 4-9. See also Government of Bangladesh, “Report to the Committee on the Elimination of Discrimination against Women” (1997) [online], <http://www.un.org/esa/gopher-data/ga/cedaw/17/country/Bangladesh/C-BGD3-4.EN> (retrieved June 5, 2003), Sec. 2.5.2: “There are laws against forcing anyone into prostitution . . . Soliciting is also against the law . . . However there are no laws against a person of 18 or above engaging in sexual activity in exchange or money.” Several brothels operate in Bangladesh, as noted above, despite SITA’s prohibitions against owning or managing a brothel.

¹²² See, for example, “Human Security in Bangladesh” (Dhaka: UNDP, September 2002), p. 29.

¹²³ Vagrancy Act, 1943, Sec. 3-9.

¹²⁴ Institutional Development of Human Rights in Bangladesh (IDHRB), “Mapping Exercise on HIV/AIDS- Law, Ethics, and Human Rights” (Dhaka: Ministry of Law, Justice and Parliamentary Affairs, 2002), p. 36.

¹²⁵ High Court Division Judgment, Writ Petition No. 2871 of 1999, March 14, 2000, p. 8 and 16.

practice, most of the arrests of sex workers reported to Human Rights Watch occurred under section 54 of the Code of Criminal Procedure, which provides for arrests without warrant.¹²⁶ Even Attorney General A.F. Hassan Ariff has recognized that section 54 is regularly abused,¹²⁷ and a High Court ruling in April 2003 required that the section be amended.¹²⁸ If a police officer was acting in good faith, he or she might initially arrest a sex worker under section 54 and then charge her, within twenty-four hours, under the DMPA. A magistrate would rule on the charge and, if the sex worker was found guilty, would penalize the sex worker according to the sentences provided for in the DMPA: a fine of up to 500 Tk. [U.S.\$8.62] and/or a jail sentence of up to fifteen days.¹²⁹ The arrests of sex workers documented by Human Rights Watch, however, were rarely followed by lawful prosecutions.

Extortion, Beatings, and Rapes Following Arrest

Most commonly, arrests of sex workers recounted to Human Rights Watch were reportedly used as means of extortion. Sex workers reported being arrested but never charged or tried. They were held until someone—the sex worker herself, or her friends or family, or the hotel owners who profit from them—paid a bribe for their release.

At seventeen, Beauty T. had already been arrested twice. Both arrests resulted from police raids of hotels. She said the police beat those who resisted coming to the station. She was never charged or brought before a magistrate. Both times, hotel owners “rescued” her for 500 Tk. [U.S.\$8.62].¹³⁰

Sometimes the police demanded and accepted a bribe from a sex worker but then continued to detain her. Durga R. stated, “I have been arrested by police many times. Sometimes they tell me that if I give them money they will release me but sometimes I pay them and they still don’t release me.”¹³¹ In the eyes of eighteen-year-old Hava V., who also recounted being arrested for the purpose of extortion, the police were difficult to distinguish from the criminals. “Police are like mastans. They are all always taking money.”¹³²

In addition to extortion, numerous sex workers who had been arrested reported having been beaten or raped while in custody. Shipna B., a twenty-year-old hotel-based sex worker, was arrested in December 2001. She said she was raped for failing to come up with a bribe.

Around 2:00 a.m., three policemen entered the room [of the hotel she was working in] and arrested me and the client and brought both of us to the hotel manager’s office. The police asked each of us for 500 Tk. [U.S.\$8.62]. The client paid and was released but I had no money so the police wouldn’t release me. The police told me that since I had no money, they would have sex with me all night and then release me from the room. There were three policemen in the room when they said this. Two of them left and the third stayed and forced me to have sex with him.¹³³

Lani N. recounted an incident from August 2002 in which she was arrested along with five other sex workers. She said that at the police station, all of them were beaten, and all but she were raped. In another arrest, in December 2001, Lani N. said she was arrested along with two other sex workers from the home of her pimp. They were brought to Beani Bazar police station, and Lani N. said she was raped there twice by the same officer. They were transferred to Sylhet police station, held for seven days, and then released when their pimp paid a bribe

¹²⁶ For more information on section 54, see the Background Chapter.

¹²⁷ “Abuse of Power by Police Must Stop,” *The New Nation*, February 8, 2002, vol. 2, no. 480.

¹²⁸ “Detention on suspicion made illegal: High Court issues 15-point directive on lawmen,” *Daily Star*, vol. 3, no. 1282, April 20, 2003.

¹²⁹ Human Rights Watch interview by telephone with human rights lawyer Hossain Shaheid Sumon, Dhaka, March 5, 2003.

¹³⁰ Human Rights Watch interview with Beauty T., Dhaka, December 12, 2002.

¹³¹ Human Rights Watch interview with Durga R., Dhaka, December 17, 2002.

¹³² Human Rights Watch interview with Hava V., Sylhet, December 24, 2002.

¹³³ Human Rights Watch interview with Shipna B., Rajshahi, December 18, 2002.

of 6000 or 7000 Tk. [U.S.\$103.45-120.69] for the three of them. Lani N. had to pay back 2500 Tk. [U.S.\$43.10] to her pimp.¹³⁴

When the police arrested twenty-four-year-old Lucky K. in 2000, they harassed her and beat her: “At the police station the constables were teasing me. I didn’t like it. Once they found out what I did [for a living], they tried to kiss me. Then I was angry. The police officer started to hit me with his baton. He said, ‘You can stand sex work but not being hit?’”¹³⁵

Thirty-year-old Hena E. worked both as a street-based sex worker and as an HIV/AIDS peer educator. The bribe system was so pervasive that she accepted it as a part of life. She objected though to the beatings that she said often accompanied arrests. “When sex workers are arrested by police, money is not the problem . . . because the sex workers are willing to pay money to the police. But being beaten is a problem because sometimes we’re beaten so badly that we can’t work and support our dependents.”¹³⁶

Vagrancy Homes

Despite the law as stated by the AIDS and Human Rights report published by the Ministry of Law and the 2000 ruling of the Bangladesh High Court, sex workers are still sometimes placed in state-run vagrancy homes. Though the ostensible purpose of these homes is “rehabilitation,” sex workers who had been confined in such homes reported that living conditions were poor and that release was often dependent on payment of a bribe. Durga R. said she was arrested and sent to a vagrancy home in early November 2002. She was kept in one home for two weeks and then another home for two weeks before her mother paid a bribe of 13,000 Tk. [U.S.\$224.14] for her release. She faced difficult conditions, including sexual abuse from other inmates and vagrancy home staff.

I became mentally weak during my time at [the second of the two homes] because of the behavior of the vagrancy home staff. The staff made the inhabitants clean bathrooms. If we protested, they beat us. Another problem was with other female inhabitants . . . one woman approached me and tried to force me to have sex with her. I refused and was able to reject her because the leader of the sex workers in the vagrancy home protected me. The staff of the vagrancy home also sexually abuse the inhabitants . . . it happened to me. During my stay in the vagrancy home, two staff members tried to force me to have sex with them. I protested and said that I would complain to a higher official and they let me go. The staff usually approach new inhabitants for sex.¹³⁷

Durga R. remembered the way her mother was treated when she came to pay the bribe for her release.

My mother paid 13,000 Tk. [U.S.\$224.14] for my release. When parents or guardians go to release their relative, they are treated very poorly. When my mother came to release me, she was treated like a *dalal* [pimp] . . . They asked my mother, “who are you? Why are you coming here to release her? You must be a pimp.”¹³⁸

Shahnaz Begum, former president of Durjoy, said that many Durjoy members told her of sexual abuse in vagrancy homes. Begum said she thought of vagrancy homes as “factories to make sex workers. Street children go to vagrancy homes as children and then the staff have sex with the girls and then the girls become sex workers.”¹³⁹

¹³⁴ Human Rights Watch interview with Lani N., Syhlet, December 24, 2002.

¹³⁵ Human Rights Watch interview with Lucky K., Dhaka, December 12, 2002.

¹³⁶ Human Rights Watch interview with Hena E., Dhaka, December 17, 2002.

¹³⁷ Human Rights Watch interview with Durga R., Dhaka, December 17, 2002.

¹³⁸ Ibid. Durga R.’s mother recounted this conversation to her.

¹³⁹ Human Rights Watch interview with Shahnaz Begum, Dhaka, December 10, 2002.

When Banu N., now twenty-seven, was eleven years old, a mastan abducted her, raped her, and held her in sexual slavery for six months until she escaped his house. “When I escaped, I was picked up by the police who beat me and called me a sex worker.” Banu N. was sent to a vagrancy home, where she was kept for seven years.

The main problem in the vagrancy home was the food, which was bad and not sufficient. When I complained about the food, the staff would beat me. When high officials from government visited the vagrancy home, I and others tried to complain about being beaten. Once after a complaint, the staff did beat me less.¹⁴⁰

It was after escaping the vagrancy home that Banu N. became a sex worker.

Rahana H., an HIV/AIDS peer educator, was arrested and kept in a vagrancy home in late 2001 for about a month. She also experienced poor conditions. “[O]ne big problem in the vagrancy home is that the food is not good. It is not hygienic and it tastes bad. Another problem is that we were kept under lockup and that if someone protested conditions, she was harassed.”¹⁴¹

Hena E. offered a theory of vagrancy home staff motivations. “The government pays an allotment for every vagrancy home resident. The vagrancy homes are interested in collecting these allotments. Every time a sex worker is sent there, they get another allotment. Vagrancy home authorities want to increase their population.”¹⁴²

Violent Eviction of the Magura Brothel

The other side of confining sex workers in vagrancy homes may be ousting sex workers from the places where they already live. One of the country’s fifteen remaining brothels in 2002 was in Magura, a town southwest of Dhaka. In mid-2002, the town authorities had attempted to evict the brothel’s residents and shut down its operation. A network of sex worker and human rights organizations filed a complaint in lower court opposing the action. The Assistant Judges Court of Magura issued a stay, ruling that no such eviction could take place until an adequate rehabilitation plan was developed.¹⁴³

On December 25, 2002, on one night’s notice and in the presence of soldiers and army officers, local police and townspeople violently evicted the residents of the brothel, destroying homes, beating residents, auctioning off their belongings, and sending them running. This eviction was in direct violation of the court-ordered stay. Human Rights Watch interviewed two of the evicted sex workers the next day. Rupali P., twenty-seven, had a fresh, four-inch-long, crescent-shaped scar from below her eye to her mouth. With Yasmin S., twenty-five, she explained that on the night of December 24, the local police administrator broadcast a message to brothel residents demanding that they leave by 10:00 a.m. A few women left the brothel with their bags at that time, but most, including Rupali P. and Yasmin S., stayed. Leaders and property owners in the brothel reassured sex workers that because of the court-issued order they could not be evicted.

At 10:30 on the morning of December 25, the police administrator came to the brothel and asked the women to leave. Then, in Rupali P.’s words:

The women argued that there was a government order that said that they could stay. The army, police, the district commissioner, and local people all were present. In the presence of the army, police and mastans beat sex workers. Police in civilian clothes whom I recognized beat the sex workers with *lathis* [police sticks]. I was beaten on the face. During the attack, we were told, “If you do not leave this place, we will drive our cars over you.”¹⁴⁴

¹⁴⁰ Human Rights Watch interview with Banu N., Dhaka, December 17, 2002.

¹⁴¹ Human Rights Watch interview with Rahana H., Dhaka, December 17, 2002. Human Rights Watch did not record Rahana H.’s age, but she looked like she was in her thirties.

¹⁴² Human Rights Watch interview with Hena E., Dhaka, December 17, 2002.

¹⁴³ “Eviction of Magura brothel inmates protested,” *The Independent*, December 27, 2002.

¹⁴⁴ Human Rights Watch interview with Rupali P., Dhaka, December 26, 2002.

The Magura brothel had eleven housing complexes with about 300 rooms among them and some 260 resident sex workers total. Out of the eleven complexes, seven were destroyed. The belongings of brothel residents were put up for auction on the spot; residents were not given the proceeds from the sales.¹⁴⁵

Yasmin S. added that the police beat both women and children. Ten police officers tried to beat her up because, she said, she was a leader among the sex workers there. But the army officers present, who otherwise watched the attacks without doing anything, protected Yasmin S. from being beaten. She still lost her home and almost everything she owned: “My house was destroyed. I lost all my belongings, except for some electronics—a cassette player and a television set. My rice and money were also taken during the eviction.”¹⁴⁶

The eviction was in direct violation of the lower court stay. The soldiers and army officers watched the illegal eviction without interfering (except, it seems, to protect Yasmin S.). It was widely perceived by brothel residents and sex worker organizations that it was the army’s presence that emboldened local police and mastans to act outside the law.¹⁴⁷ The army’s disregard for the law was a salient feature throughout Operation Clean Heart, from the forty-plus deaths in custody to the subsequent law that protected soldiers and officials from public prosecution.¹⁴⁸

No Means of Redress

Though not formalized in law like the immunity granted for Operation Clean Heart, police impunity for abuses against sex workers appears absolute. Sex workers most often laughed at the idea of filing a complaint in response to an abduction, rape, beating, or extortion by a police officer. Again and again, our question about whether a sex worker had filed a complaint was answered with a question: “To whom should I complain when the police themselves are abusing me?” “To whom should I complain?”

Shathi T. explained: “I have never complained to anyone about the police and the fact that they force me to have sex with them and then don’t pay and don’t use condoms. Where would I go to make a complaint? Who would take my complaint? I just discuss this with the other sex workers, like gossip.”¹⁴⁹ Lani N. echoed Shathi T.: “I didn’t complain about the police rapes. Why complain? We know how the police are. This is how the police behave. Who are we going to complain to?”¹⁵⁰

Those sex workers who did attempt to make complaints said they were ignored and sometimes ridiculed or abused. Durga R. explained that the one time she complained about being raped by a police officer, she was told she should welcome being raped by police for her own good:

About one year ago, I did go to the police to complain about being raped by police but they didn’t take my complaint. A high level police officer told me that if the police want to have sex with you, just do it. He said that I should make the police happy, because if I don’t make the police happy, how am I going to do my business on the street?¹⁵¹

After Silpi C. was gang-raped by ten police officers in a police station, she was brave enough to make a complaint.

¹⁴⁵ Human Rights Watch interviews with Yasmin S. and Rupali P., Dhaka, December 26, 2002.

¹⁴⁶ Human Rights Watch interview with Yasmin S., Dhaka, December 26, 2002.

¹⁴⁷ Human Rights Watch interviews with Yasmin S., Rupali P., and members of the Sex Workers National Network, Dhaka, December 26, 2002.

¹⁴⁸ See Asia-Pacific Human Rights Network, “Operation Clean Heart: Bangladesh’s Dirty War,” October 11, 1999 [online], <http://www.hrdc.net/sahrdc/hrfeatures/HRF72.htm> (retrieved January 13, 2003); “Immunity for actions during anti-terror drive,” *The Hindu*, February 27, 2003.

¹⁴⁹ Human Rights Watch interview with Shathi T., Rajshahi, December 18, 2002.

¹⁵⁰ Human Rights Watch interview with Lani N., Sylhet, December 24, 2002.

¹⁵¹ Human Rights Watch interview with Durga R., Dhaka, December 17, 2002.

The following day, I complained to a police constable named Nayek He said he would look into my complaint and told me to return the next day. The following day, I returned and Nayek told me that the matter ended with him and that I shouldn't complain to the police anymore.¹⁵²

Hava V. had also made attempts at filing complaints about police officers. "I have made complaints to the police about police beating me but it never helps. The thana police just tell me that they're going on duty and that they have no time to take my complaint."¹⁵³

Sex workers reported that police were similarly indifferent to complaints about abuses by mastans. Durga R. said she has attempted to complain about rapes by mastans.

Mastans also rape me and beat me when I ask for money I went to talk to the police about this but they never took my complaint. When I tried to complain, they asked me for money and told me to bring them to the person who had raped me.¹⁵⁴

When fifteen to twenty men gang-raped Silpi C. in a tea garden in early 2002, police refused to investigate and told her to accept such incidents as part of a sex worker's life. "I complained about this [the gang-rape] but with no result. Police said that they couldn't do anything about this. They also said that I was a street-based sex worker, so this kind of thing happens to me."¹⁵⁵

Sadin D. said that she generally does not file complaints about abuses committed against her, but that she did try once. "I once gave a complaint against a mastan who threatened to pick me up from my home and said he would kill me. I went to the police station and filed a case but nothing happened. Police took no action but just asked me for money."¹⁵⁶

As mentioned above, abuses committed by the army during Operation Clean Heart were formally protected from public prosecution by a law passed in February.¹⁵⁷ None of the sex workers who spoke with Human Rights Watch reported an attempt to make an official complaint about abuse by soldiers.

Interference with Efforts to Fight HIV/AIDS

The government of Bangladesh's National Policy on HIV/AIDS and STD-Related Issues recognizes that the success of HIV/AIDS efforts involving sex workers depends on the degree of control sex workers have over their own lives.

Interventions to prevent HIV infection associated with prostitution have been most effective where sex workers are empowered to decide their working conditions. A major effect of legal and social restriction on prostitution has been to generate low self-esteem among sex-workers and the belief that they cannot control their lives. Restrictive laws and adverse working conditions inhibit their ability to negotiate with their clients and/or managers for adequate health care and safer sexual practices.¹⁵⁸

And yet sex workers are regularly abducted, raped, beaten, and subject to extortion by the police—the bearers of state authority—and by the nation's powerful thugs. By decreasing the control sex workers have over their lives, all of these abuses undermine sex workers' capacity to protect themselves and others from HIV/AIDS.

¹⁵² Human Rights Watch interview with Silpi C., Sylhet, December 24, 2002.

¹⁵³ Human Rights Watch interview with Hava V., Sylhet, December 24, 2002.

¹⁵⁴ Human Rights Watch interview with Durga R., Dhaka, December 17, 2002.

¹⁵⁵ Human Rights Watch interview with Silpi C., Sylhet, December 24, 2002.

¹⁵⁶ Human Rights Watch interview with Sadin D., Rajshahi, December 18, 2002.

¹⁵⁷ "Immunity for actions during anti-terror drive," *The Hindu*, February 27, 2003.

¹⁵⁸ National Policy on HIV/AIDS, p. 57.

In spite of the abuses they face, many sex workers have joined efforts to disseminate the knowledge and means of HIV prevention to their peers. Peer education has been shown in many countries to be among the most effective and sometimes the only possible way to bring HIV information, condoms, and other services to sex workers.¹⁵⁹ The national HIV/AIDS policy takes note of the importance of peer education: “[I]t should be borne in mind that behavioral change is most likely to occur when sex workers and their clients are actively involved in prevention efforts, for instance by using current or ex-sex workers as educators, counselors and coordinators collaborating with self-help groups.”¹⁶⁰

Some of the sex workers Human Rights Watch met do AIDS outreach with compassion and sense of purpose. Lani N. stated simply: “I want to live and I want to save other people and help other people live too.”¹⁶¹ As a matter of national policy, Bangladesh professes to support the health organizations and organizations of sex workers that undertake this work.¹⁶²

Bangladesh’s support is contradicted, however, by the actions of the police.¹⁶³ One of the essential components of HIV/AIDS outreach work for and by sex workers, for example, is the distribution of condoms. Shathi T. said that if her organization did not provide condoms the sex workers would not have them. “We are distributing condoms in a confidential way. Usually, women never buy condoms from the outside. In our culture, women cannot do this.”¹⁶⁴ But possession of condoms can provoke harassment and violence from the police. Shahnaz Begum, former president of Durjoy, stated: “It’s a common scenario that police beat outreach workers as they sell condoms.”¹⁶⁵ Durga R. worked as an outreach worker for Durjoy. She reported that her outreach work was treated with the same condemnation as her sex work.

When I sell condoms, the police interfere with this. They ask me why I have so many condoms. I say that they are from the office. One time, about one and a half months ago, a female police officer took my bag and searched it. She found condoms in my bag and seized them. She said to me, “there are many kinds of work so why are you doing this kind of work?”¹⁶⁶

Banu N. was also a peer educator with Durjoy. She reported being beaten for the mere act of gathering with other sex workers to speak about AIDS.

As a peer educator, I tell other sex workers about various diseases like STDs and AIDS. I tell other sex workers to use condoms to prevent AIDS Sometimes when I am doing my peer education work and the army or the police see a group of sex workers gathering together, they come and beat us all.¹⁶⁷

Mohammed Rahman was a project coordinator for the Bangladesh AIDS Prevention Society, an organization providing health care and AIDS information to hotel-based sex workers in Dhaka. He told Human

¹⁵⁹ One literature review conducted by UNAIDS, for example, found that out of seven of the “more rigorous” studies of the effectiveness of peer education programs, “all but one found that the interventions that included HIV/AIDS peer education had a positive impact on [sexually transmitted infections] or HIV incidence and/or risk behaviour.” UNAIDS, “Peer education and HIV/AIDS: Concepts, uses, and challenges” (Geneva: 1999), p. 21.

¹⁶⁰ National Policy on HIV/AIDS, p. 57.

¹⁶¹ Human Rights Watch interview with Lani N., Dhaka, December 24, 2002.

¹⁶² Government of Bangladesh, “National Integrated Work Plan on HIV/AIDS,” (Dhaka: 2002), p. 1. This document lays out a plan for the loan agreed upon by Bangladesh and the World Bank in December 2000. See also Ministry of Health and Family Welfare, Government of Bangladesh, “Bangladesh National Response to HIV/AIDS Epidemic,” (Dhaka), p. 8.

¹⁶³ Police abuses against HIV/AIDS outreach workers are not unique to Bangladesh. Human Rights Watch has documented similar abuses in India, for example. See Human Rights Watch, “Epidemic of Abuse: Police Harassment of HIV/AIDS Outreach Workers in India,” *A Human Rights Watch Report*, vol. 14, no. 5(C), July 2001.

¹⁶⁴ Human Rights Watch interview with Shathi T., Rajshahi, December 18, 2002.

¹⁶⁵ Human Rights Watch interview with Shahnaz Begum, Dhaka, December 10, 2002.

¹⁶⁶ Human Rights Watch interview with Durga R., Dhaka, December 17, 2002.

¹⁶⁷ Human Rights Watch interview with Banu N., Dhaka, December 17, 2002.

Rights Watch that of his organization's thirty-five peer educators, at least seven were arrested between February, when Rahman started with the organization, and mid-December 2002. Two of them were sent to vagrancy homes; three were released; and two were sentenced to five and seven days in jail respectively. He said the two who were sent to vagrancy homes were charged with being sex workers. (Such a charge, according to the 2000 High Court judgment and the Ministry of Law, is unsupported by the Vagrancy Act.) According to Rahman, both women had identification cards showing their positions as peer educators, but the police were unmoved. One woman spent twenty-two days in the home; the second spent twenty-five days. Rahman said that both women were released after paying significant bribes. One paid 8,500 Tk. [U.S.\$146.55], which was 85 percent of her usual monthly income.¹⁶⁸ He said arrests of peer educators posed a serious problem for the organization's work.

Peer educators are each assigned to work at particular hotels. If they can't go to the hotel, other staff members have to fill in and there's not enough staff to go around and do all the work. It's harder to distribute all the condoms that they need to without the regular staff support.¹⁶⁹

Police harassment pushed one peer educator, twenty-four-year-old Shathi T., so far as to exchange sex for the opportunity to carry out her duties. "When the police try to interfere with my peer education work, I tell them that I'll have sex with them for free At the beginning, each and every month I would have to have sex with police."¹⁷⁰ Jahan H. was also an outreach worker. She lamented the way that sex workers are treated even when working for the public good. "I am working for Bangladesh. Bangladesh government ought to help me instead of hurt me."¹⁷¹

Social Stigma

Abuses by police and mastans are part of a context of broad societal marginalization of and discrimination against sex workers. Sex workers reported facing discrimination from neighbors, landlords, doctors, and health care providers among others. Shipna B., for example, told Human Rights Watch that it is hard for a sex worker to find housing in Rajshahi. After she found a job as a peer educator, she had more success, but earlier she "sometimes had to sleep on the river bank or at the train station."¹⁷² Hena E. said that in September 2002, her neighbors found out she was a sex worker and told her that she had to give them money if she wanted to stay in the neighborhood. When she complained to the police, they responded with derision—"You are a sex worker, so why are you here with this complaint?"—and beat her.¹⁷³

Religious conservatives can sometimes be the source of stigma and violence. The Magura eviction was reportedly supported by local religious leaders.¹⁷⁴ And in Sylhet, on the night of June 23, 2002, several students from a *madrassa*—that is, students who were training to become *imams*, or Muslim religious leaders—beat a group of ten to twelve sex workers. Sara R. and Silpi C. were among those beaten. Silpi C. recalled being asked why she was standing outside in the night. She replied, "I am an outreach worker with the CARE HIV/AIDS program in Sylhet. I work with sex workers." The student asked again why she was standing on the road and then began to beat her. Silpi C. was hit on the head and chest and hospitalized for four days. Sara R. was hit by an electric wire and still had scars.¹⁷⁵

¹⁶⁸ Human Rights Watch interview with Mohammed Rahman, Dhaka, December 12, 2002.

¹⁶⁹ Ibid.

¹⁷⁰ Human Rights Watch interview with Shathi T., Rajshahi, December 18, 2002.

¹⁷¹ Human Rights Watch interview with Jahan H., Dhaka, December 12, 2002.

¹⁷² Human Rights Watch interview with Shipna B., Rajshahi, December 18, 2002.

¹⁷³ Human Rights Watch interview with Hena E., Dhaka, December 17, 2002.

¹⁷⁴ Human Rights Watch interview with Yasmin S., Dhaka, December 26, 2002.

¹⁷⁵ Human Rights Watch interviews with Sara R., Silpi C., and CARE Project Officer Syed Shaifullah, Sylhet, December 24, 2002. Brutal as this incident was, the aftermath reflected the potential effectiveness of advocacy by NGOs and offered some small hope for the possibility that police can act responsibly. A representative from CARE took up the case with the police, and there was an investigation the following day. Police arrested three or four students involved in the beating. In the presence of the police, the principal of the *madrassa*, and CARE representatives, the perpetrators apologized to the sex workers they had beaten. Ibid.

In addition, cemeteries have traditionally refused to bury sex workers. The Sex Workers National Network, a coalition of sex worker organizations, issued a declaration of demands in June 2002, and one of them was that the government “take proper actions for [sex workers’] burial rights.”¹⁷⁶ The June Declaration also demands a change to the current system of birth registration, under which a father’s name is required. Because sex workers often do not know the identity of their babies’ fathers, many sex workers cannot properly register the births of their children.¹⁷⁷ Both these demands are as much about basic dignity as they are about practical hardship.

One way in which social stigma reflects itself in sex worker behavior is the fact that many sex workers dress in full *burkha* (black robes covering entire body and face, often leaving only the eyes exposed) when not working. In Bangladesh, women in *burkha* are generally in the minority; more women wear *salwar kameezes* (long tunics over trousers) or *saris*. Beauty T. explained: “I wear *burkha* so that no one can recognize who I am, even my relatives.”¹⁷⁸

Sometimes there is no place to hide. In late 2002, Sadin D. faced society’s prejudice in the form of a mob:

I went with another sex worker outside Rajshahi to have sex with two people On our return, a few *mastans* stopped us and called us sex workers. A group of people gathered to see the sex workers and people started to shout that we should be punished and buried until we died. We were brought to a dark room with no windows and people were still saying that we should be killed. I protested that I was not a sex worker but the other woman was known as a sex worker. At some point, the chairman [a local level official] came and rescued us.¹⁷⁹

The prejudice that underlies abuses by *mastans* and police is apparently widely felt. Sex workers are vilified by every segment of society. (Though, as many of them point out, men from all segments of society come to them as clients.) Shahnaz Begum, the former *Durjoy* president, emphasized that sex workers are not seeking to overthrow Bangladeshi culture: “I am not asking for independence to dance and sing on the street. Just that we should be considered human beings, like other people.”¹⁸⁰

¹⁷⁶ “June Declaration by Sex Workers National Network” (June 18 and 19, 2002). See Appendix.

¹⁷⁷ Article 7(1) of the Convention on the Rights of the Child requires that each child “shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality, and, as far as possible, the right to know and be cared for by his or her parents.” Convention on the Rights of the Child, G.A. res. 44/25, U.N. Doc. A/44/49 (1989) (entered into force September 2, 1990, ratified by Bangladesh, August 3, 1990), art. 7(1).

¹⁷⁸ Human Rights Watch interview with Beauty T., Dhaka, December 12, 2002.

¹⁷⁹ Human Rights Watch interview with Sadin D., Rajshahi, December 24, 2002.

¹⁸⁰ Human Rights Watch interview with Shahnaz Begum, Dhaka, December 10, 2002.

VI. ABUSES AGAINST MEN WHO HAVE SEX WITH MEN

Rakesh K. grew up in Rajshahi city. He told Human Rights Watch that he did not remember when he first realized he was sexually attracted to men but that as long as he has been alive and aware he has known that he was somehow different from others. He said that when he was twelve or thirteen, other *kothis* (boys or men who identify themselves as female or feminine) convinced him to join them in occasionally selling sex for spare money and that he had engaged in part-time sex work since that time. At fifteen, he was gang-raped and beaten by fourteen mastans. He said that several of the mastans urinated on his anus after ejaculating.

I cried, said please stop. But they all did it, and none paid One kothi was also with me, but had run. That kothi later came back, saw me lying down, and brought me to his mother's house. I stayed there an entire night and day, and used hot water to ease the pain When I came home, I was still sick. I told my family I had diarrhea I was afraid to tell them [what happened] because if they knew I had sex with men they could kill me.

Rakesh K. was twenty when Human Rights Watch spoke to him in December 2002. He was in the tenth standard at school because his family had kept him out of school for a few years when he was young. He said that he liked school but that he did not attend regularly because his classmates treated him badly, calling him names and poking fun at him.

He said he was raped frequently by both police and mastans. He explained that at night, police often demanded sex on the spot, and that in the daytime, police would demand that he come to a certain place at a certain time for the purpose of sex. The officers would threaten to find and arrest him if he did not come. He said that he had once broken one of these imposed appointments, and that indeed the officer found him and beat him. He also stated that police "have very rough sex."

One night in December 2002, Rakesh K. had gone to the bank of the Padma River to sell sex. A police officer abducted him and brought him from the riverbank to a police barracks, where four officers raped him. He said that he pleaded with the officers, stating that he could not have sex with so many people, but they forced him nonetheless. He was bleeding after the incident but did not visit the doctor because, he said, "the doctor would ask questions."

He also said that mastans forced him to have sex approximately four to five times per month in the months before meeting with Human Rights Watch. He said that mastans usually would rape him in groups of two or three and also would take his money. In September 2002, five mastans attacked him, demanding his valuables. When they found he did not have anything, one mastan began to beat him. Another mastan pushed him into a pond nearby and he escaped by swimming to the other side.

After becoming involved with an AIDS prevention organization working with men who have sex with men, he asked some of the police officers who forced him to have sex to use condoms. The officers refused. One officer's reply revealed his lack of awareness about the health risks associated with male-to-male sex: "I'm not having sex with your sister—why should I use a condom with a boy?"

He had never filed a complaint about any of the abuses he suffered. He found the idea surprising: "Who would I complain to?" Rakesh K. had heard that in San Francisco there was a neighborhood where men who have sex with men could live without fear or abuse. He said "kothis want a place like San Francisco."¹⁸¹

Rakesh K.'s experiences are similar to those of many of the men who have sex with men (MSM) who spoke with Human Rights Watch. Like women sex workers, men who have sex with men are abducted, raped, physically assaulted, and subject to extortion by police and mastans. Men who have sex with men are sometimes arrested and abused without being charged with any crime. They have no effective means of lodging official

¹⁸¹ Human Rights Watch interview with Rakesh K., Rajshahi, December 19, 2002.

complaints about the abuses they experience. The police also sometimes harass, beat, and arrest men engaging in HIV/AIDS outreach work. Moreover, men who have sex with men are discriminated against by the wider society: turned away from jobs and harassed at school. An old colonial law against “carnal intercourse” is interpreted to criminalize men who have sex with men. These violations stem from and result in a subjugated, subhuman status for this group of people while simultaneously undermining Bangladesh’s capacity to fight an emerging AIDS epidemic.

In Bangladesh, the term “men who have sex with men” encompasses individuals with a range of gender identities. *Hijras*, for example, take on feminine behavior and dress; they often live in distinct communities, and many undergo castration.¹⁸² Most of the men interviewed by Human Rights Watch identified themselves as *kothis*. *Kothis* also generally take on feminine mannerisms but usually do not live in distinct communities. Reliable information about the lives of men who have sex with men is difficult to obtain, in part because of the great social stigma that they face. Some experts have reported that a significant proportion of *kothis* engage in sex work either occasionally or as their primary source of income.¹⁸³ One study conducted by Naz Foundation International of 124 *kothis* from four cities in Bangladesh drew a causal link between the prevalence of sex work among *kothis* and poverty: “Sex work is often not a matter of choice, but of economic necessity.” The study reported that economic need, in turn, was driven by discrimination. Seventy-seven percent of those interviewed, for example, stated “that if they were not *kothi[s]* they would have found it easier to find work, or would be doing better in their present employment.”¹⁸⁴

Another term, *panthi*, has been used to refer to men who generally take on masculine demeanor and are sometimes “clients” of *kothis* who sell sex or partners of *kothis* in relationships that do not involve paying for sex. Some NGO and academic observers have suggested that *panthis* are more diffuse, less visible, and generally not connected by a collective identity.¹⁸⁵ Some AIDS intervention efforts have therefore focused on *kothis* as a way of reaching the wider men who have sex with men population.¹⁸⁶ Several leaders and members of organizations of men who have sex with men emphasized that identities like *kothi* and *panthi* are fluid and flexible.¹⁸⁷

¹⁸² See, for example, Therese Blanchet, *Lost Innocence, Stolen Childhoods* (Dhaka: University Press Limited, 1996), pp. 33-34.

¹⁸³ One organization that works with men who have sex with men conducted interviews of 130 self-identified *kothis* in Dhaka. The resulting study reported that 26 percent of those interviewed worked exclusively as sex workers while about 52 percent of those interviewed combined sex work with either a job or a small business. Kamrun Ahsan, Organization of Development Program for the Underprivileged (ODPUP), “Knowledge and Practices on Sexual Health of Men Having Sex with Men Community in Uttara and Tongi, Dhaka,” September 2000, p. 12. The author of the study originally intended to interview a random sample of *kothis*, but found that many *kothis* were “difficult to find” and others were “not comfortable to discuss and give a formal interview at [their] dwelling[s].” He ended up choosing the sample based on who was available to be interviewed. *Ibid.*, p. 8. The author’s methodological difficulties are reflective of the stigma faced by men who have sex with men and also limit the generalizability of the findings. Another observer, who conducted a qualitative review of HIV/AIDS programs for men who have sex with men in Bangladesh, stated about *kothis*: “These (usually) young men are often to be found in the parks of Dhaka selling sex to (usually) older men.” Gary Dowsett, “Men who have sex with men in Bangladesh,” *Pukaar* 27 [online], <http://www.nazfoundint.com/html/pukaar-8.html> (retrieved February 12, 2003), p. 3.

¹⁸⁴ Aditya Bondyopadhyay, Naz Foundation International, “Social justice, human rights, and MSM,” Briefing Paper No. 7, obtained from author, November 2002, pp. 7-8.

¹⁸⁵ Kamrun Ahsan, ODPUP, “Knowledge and Practices on Sexual Health of Men Having Sex with Men Community in Uttara and Tongi, Dhaka,” p. 5; Gary Dowsett, “Men who have sex with men in Bangladesh,” pp. 3-4; Aditya Bondyopadhyay, Naz Foundation International, “Social justice, human rights, and MSM,” p. 6.

¹⁸⁶ Kamrun Ahsan, ODPUP, “Knowledge and Practices on Sexual Health of Men Having Sex with Men Community in Uttara and Tongi, Dhaka,” p. 5; Gary Dowsett, “Men who have sex with men in Bangladesh,” pp. 3-4; Aditya Bondyopadhyay, Naz Foundation International, “Social justice, human rights, and MSM,” p. 6.

¹⁸⁷ Human Rights Watch interviews with leaders and members of organizations of men who have sex with men: Dhaka, December 11, 2002; Rajshahi, December 19, 2002; Sylhet, December 24, 2002. One sign of the malleability of these terms of identification is that in Bangladesh, some of those who have been in contact with HIV/AIDS interventions have come to refer to themselves and each other by the English acronym MSM, as in, “are you MSM?” Human Rights Watch interviews with members of organizations of men who have sex with men, Dhaka, December 11, 2002.

Sexual Violence and Other Physical Abuse

Numerous men who have sex with men who spoke with Human Rights Watch reported being raped, gang-raped, and beaten frequently by police and mastans. Thirty-year-old Kajal J. reported that he was gang-raped by three police officers in November 2002, and that police gang-raped him about nine other times in 2002. Kajal J. also told Human Rights Watch of a beating he suffered in mid-2002. “A policeman grabbed me by the sari I was wearing. When I tried to release myself, the policeman got angry and beat me badly. I missed a week of work because of the incident.”¹⁸⁸

Rafiq F., twenty-five, who said he makes his living from sex work, estimated that in late 2002 police beat him two to three times per month on the back of his legs and other parts of his body. He said the beatings were often accompanied by insults. “Police say to me, ‘You are doing a bad job’; ‘You are a bastard’; ‘You are a hijra’; ‘Your parents are both bastards’ and such things.” He also said that mastans raped him two to three times per month in late 2002, and that “[t]hey almost always beat me when they rape me.”¹⁸⁹ Rafiq F. said that in October 2002, he agreed to have sex with five mastans. He thought he would be paid, but instead the mastans beat him and made him squat repeatedly while holding his ears, a gesture that commonly symbolizes shame in South Asia. He said that the mastans also spat and forced him to lick up their spit. They checked all his pockets for money and then let him go.¹⁹⁰

In September 2002, seventeen-year-old Mohammad H. was arrested by police, taken to a police camp and, from there, to a sugar cane field where four people raped him. “I thought that I could not continue and feared a fifth person would rape me so I ran away. I was completely naked. I had to go to my house by [way of] the outside of town.” A month later, in October 2002, Mohammad H. was abducted and gang-raped by police again. He was waiting in a public area to meet a client when a police officer picked him up and brought him to a police camp. At the camp, five policemen raped him and then beat him. Mohammad H. said he was gang-raped by police officers at least ten times between December 2001 and December 2002 and estimated that during the same period police officers beat him about three to four times per month. He said mastans often beat him and raped him as well. He recounted an incident from mid-2002 in which he was attacked by six or seven mastans. He said the mastans took what little money he had, and proceeded to “cut my shirt with a knife and then beat me and rape me. I started crying and they beat me some more and told me that they would beat me more when I cried.”¹⁹¹

All of the rapes of men who have sex with men reported to Human Rights Watch were committed without condoms.

Extortion and Theft

Men who have sex with men also reported that they were regularly subjected to extortion by both police and mastans. Mohammad H., for example, stated that “mastans often rob me at knifepoint at the riverbank cruising area and sometimes steal my shirt . . . this happens two to three times per week.”¹⁹² Several men who have sex with men also told Human Rights Watch that when they were unwilling or unable to produce the desired cash or valuables, they often faced violence. In October 2002, seven to eight mastans came to Kajal J. and asked him for money. He refused. He was then beaten by a stick broken from a tree and knocked unconscious. He said: “When I woke up, I found my money was gone.”¹⁹³

Akhil K. related an incident of police extortion and violence from 2000. He said that he was on the way home from having sex with a client when police stopped him and asked him how much money he had. He responded that he had 20 Tk. [U.S.\$0.34]. The police insisted that he had more. Akhil K. called a few other kothis to come and observe the police officers’ actions. The police were carrying collapsible nightsticks. When the officers thrust the sticks forward, opening them to their full length, the kothis ran. Akhil K. said that “the cops

¹⁸⁸ Human Rights Watch interview with Kajal J., Dhaka, December 11, 2002.

¹⁸⁹ Human Rights Watch interview with Rafiq F., Rajshahi, December 19, 2002.

¹⁹⁰ Ibid.

¹⁹¹ Human Rights Watch interview with Mohammad H., Rajshahi, December 19, 2002.

¹⁹² Human Rights Watch interview with Mohammad H., Rajshahi, December 19, 2002.

¹⁹³ Human Rights Watch interview with Kajal J., Dhaka, December 11, 2002.

caught us and took our money and beat us. I was injured seriously enough that I had to stay away from home for seven days because I was afraid my parents would notice my injuries and ask me what had happened.” Like several other men who have sex with men with whom Human Rights Watch spoke, Akhil K. was afraid that his family would condemn him.¹⁹⁴

Men who engaged in sex work reported that police and mastans also extorted money from their clients. This extortion from clients can place the men selling sex in danger as well. Thirty-one-year-old Mathur H. said that once in August 2002, when he met a client for sex, a police officer approached the two of them and demanded money from the client. Mathur H. objected. He said that the officer then “beat my entire body with a policeman’s stick.” When the beating was over he was bleeding from his elbows, back, and shoulder. He said that his friends took him to the hospital where he spent one and a half months. He said that he received stitches under his right eye, and that his vision was impaired for three months after the incident. He showed Human Rights Watch researchers scars from the incident on his arm and his shin.¹⁹⁵

Thirty-three-year-old Suliman M., who said he worked both as a sex worker and as an AIDS peer educator, described to Human Rights Watch one method of mastan theft. He said that mastans often follow a male sex worker and a client from a cruising place and hide nearby. When the pair begin to have sex, the mastans appear. “They take money from kothis and panthis; they sometimes cut us with a knife. They also beat with sticks.” Suliman M. recounted one such incident from December 2002. He said that while he was having sex with a client, a mastan approached pretending that he (the mastan) was a police officer. The mastan stabbed Suliman M. and took his jewelry and money.¹⁹⁶

Arbitrary Arrests

Prohibitions on sex work, such as those found in the Dhaka Metropolitan Police Act, apply equally to men and women.¹⁹⁷ However, Human Rights Watch was not told of any instance in which a man who has sex with men who engaged in sex work was formally charged or sentenced under the DMPA or any other law prohibiting sex work. Men who have sex with men did report having been arrested, but these arrests usually took place under section 54 and did not lead to criminal charges or prosecution but rather to some of the same abuses discussed above, such as extortion and physical assault. Kajal J. recounted to Human Rights Watch that in December 2002, the army and the police jointly raided a cruising area in Dhaka. He said he was arrested and taken into police custody with two other kothis, and that all three of them were seriously beaten. Kajal J. said he was beaten on his back and his buttocks and that he was released after five hours.¹⁹⁸

Mohammad H. reported one incident that occurred when he was walking home from a cruising area with another kothi at 5:00 a.m. He said that a police officer approached him without saying anything, beat him, and then put him in a police cart and brought him to the station. “The police gave no reason for the arrest . . . I couldn’t protest because when I said anything, the police just beat me more.” He said he was later told that the arrest was under section 54.¹⁹⁹ He reported that a similar incident occurred another night shortly after midnight—he was walking down the street, and police beat him and arrested him under section 54. He noted:

Some police really hate hijras and men who have sex with men. They create problems for us. If they see any hijra or MSM, they arrest us and start to beat us. . . . When I talk, my voice is a bit female and when I walk, I walk like a hijra, and that is why the police arrest me.²⁰⁰

¹⁹⁴ Human Rights Watch interview with Akhil K., Dhaka, December 11, 2002.

¹⁹⁵ Human Rights Watch interview with Mathur H., Dhaka, December 11, 2002.

¹⁹⁶ Human Rights Watch interview with Suliman M., Dhaka, December 11, 2002.

¹⁹⁷ The DMPA prohibits the buying or selling of sex in public. Bangladeshi law on sex work is discussed in the chapter on abuses against women sex workers.

¹⁹⁸ Human Rights Watch interview with Kajal J., Dhaka, December 11, 2002.

¹⁹⁹ Human Rights Watch interview with Mohammad H., Rajshahi, December 19, 2002.

²⁰⁰ Ibid.

Rafiq F. reported being arrested in October 2002. The arresting officers demanded a bribe or sex; because Rafiq F. had no money and refused to have sex, the officers beat him.

I was having sex with a client next to the riverbank. During sex, five policemen arrested me and the client. The client paid and got released immediately. At first police asked me for money, but I had no money so I couldn't give them any. Then they asked for sex but I refused, so they beat me all over the body . . . [afterward] I was sick with fever for two days.²⁰¹

No Means for Redress

Like women sex workers, the men who have sex with men with whom Human Rights Watch spoke were generally incredulous at the idea of bringing an official complaint about police or mastan abuse. After Mohammad H. related the incident in which he was arrested, was gang-raped by four people, and had to flee the scene naked, Human Rights Watch asked him whether he had told anyone about the incident. "Tell anyone?," he asked, "who would I tell?" Mohammad H. expected only prejudice and indifference from the police: "If I go to the police with a complaint, they will just say 'you are a hijra, so why are you making a complaint?'"²⁰² Rafiq F. said that he did not file any complaint after mastans beat him and forced him to lick their spit. He said that in fact he never complained about mastans. "I never made any complaints because the mastans would just spread the word that I am a prominent MSM and then things would be worse for me."²⁰³

Rehman M., twenty-eight, described one experience that embodied for him both the state's indifference to crime and the fearful power that mastans can wield. He said that in November 2002, BNP-affiliated mastans demanded money from him in plain view of police officers. He refused, and the mastans stabbed him with a knife. He approached the police officers nearby but they told him: "We can't do anything." The officers directed him to file a case at the police station: "Otherwise," they said, "we won't do anything." Rehman M. said that he "was very afraid because the police were watching when it happened. Their refusal to act frightened me. I could see the power of the mastans, and so I didn't go [to file a complaint]."²⁰⁴

Mathur H. also attempted to register a complaint after a police officer beat him with a police stick so badly that he was hospitalized for one and a half months. He said that the police listened to him, but did not act. He also said that he complained about the same beating to other residents of his village. Asked whether this second complaint amounted to anything, he replied, "The police neglect us, so what will the villagers do?" He concluded: "Everyone neglects us; we don't get any justice from anywhere."²⁰⁵

Interference with Efforts to Combat HIV/AIDS

In addition to the risks of police and mastan violence, men who have sex with men are at high risk of HIV transmission. AIDS awareness and outreach among men who have sex with men is an important part of any fight against AIDS.²⁰⁶ All the abuses documented here—rape, abduction, beatings, extortion, arbitrary arrest—undermine Bangladesh's capacity to address the AIDS epidemic. These abuses decrease the control that men who have sex with men have over their lives. They alienate these men from society, rendering them more difficult to reach with information and other means of prevention and care.²⁰⁷

The police deal a direct blow to Bangladesh's anti-AIDS efforts by actively, often violently, interfering with AIDS outreach work among men who have sex with men. As with women sex workers, peer education is one of the most important ways of reaching these marginalized persons. Thirty-year-old Ali L., who had worked

²⁰¹ Human Rights Watch interview with Rafiq F., Rajshahi, December 19, 2002.

²⁰² Human Rights Watch interview with Mohammad H., Rajshahi, December 19, 2002.

²⁰³ Human Rights Watch interview with Rafiq F., Rajshahi, December 19, 2002.

²⁰⁴ Human Rights Watch interview with Rehman M., Sylhet, December 24, 2002.

²⁰⁵ Human Rights Watch interview with Mathur H., Dhaka, December 11, 2002.

²⁰⁶ See, for example, UNAIDS, "UNAIDS Technical Update: AIDS and men who have sex with men," May 2000, p. 2.

²⁰⁷ See, for example, UNAIDS, "UNAIDS Technical Update: AIDS and men who have sex with men," May 2000, p. 5. The document does not contemplate abuses of the severity reported here, but it does explain briefly the way that "stigmatization and criminalization" can hinder HIV prevention efforts.

as a peer educator for four years, described some of his outreach work to Human Rights Watch: “When I go to the cruising spot, I sell condoms, show [others] how to use them, educate them about HIV/AIDS and STDs. If someone asks me why they should use condoms then I explain to them why.”²⁰⁸ In June 2002 police officers approached a cruising spot where he was working. Other kothis scattered, but Ali L. said he stayed where he was. He described to Human Rights Watch the events that followed:

The police caught me and hit me. They didn’t even give me a chance to explain. They hit me with a cane, with their gun, they kicked me and slapped me and pulled my hair and pulled on my collar and the waistline of my pants. They called me *sala* [wife’s younger brother; an epithet], motherfucker, bastard. They said that I was a sex worker. I said I was working for HIV/AIDS prevention. They asked to see my ID card but I had forgotten it that day. They took me to jail. After I promised that I would never go to cruising spots again, they let me go.²⁰⁹

Ali. L. concluded that this kind of police violence “creates a big problem for condom distribution. The police think we promote sex work.”²¹⁰

Monir Chowdhury had worked as the manager of a drop-in center for men who have sex with men for five years. He supervised twelve peer educators and four social organizers. Chowdhury told Human Rights Watch that in September 2002 he went to a cruising spot near the airport in Dhaka to supervise his peer educators.

I went inside and three police caught me. I explained my duty, that I work for an HIV/AIDS prevention program, and that this is permitted by the government. But they said I have to go to the *thana* [police station]. I showed my ID card but he threw away my card and said come to the police station. So many times I told him I was a social worker. I called my boss when I got to the police station and he came. I was arrested at six p.m. and finally they let me go at midnight.²¹¹

Suliman M. told Human Rights Watch that while he was on duty as a peer educator, sometimes police officers would take condoms from him and throw them away. In October 2002, “a police officer stopped me. I showed him that I was distributing condoms. The cop told me to go home and not come there any more.”²¹²

Social Stigma

Abuses against outreach workers as well as abuses against the general population of men who have sex with men reflect broader social attitudes that stigmatize men who have sex with men in many aspects of their lives. One of the most consequential of these is the job market. Suliman M., for example, said that he is a good cook, but that no one would employ him because he is effeminate.²¹³ Kajal J. identified employment discrimination as one of the reasons he engaged in sex work:

Employers are biased against effeminate men and so kothis can’t get work outside of sex work. I support six people on my income as a kothi, including my wife, father, mother, brother and sister. I make 1500-2000 Tk. [U.S.\$25.86-34.48] in a week. If I could work at a better job, I would. I want to live as a good man. My body’s need, which is god-given, is to have sex with other men. If I could have another income, that would be good.²¹⁴

Several men who have sex with men reported experiencing harassment at school. Mohammad H. told Human Rights Watch that harassment from his classmates was a strong part of what led him to leave school

²⁰⁸ Human Rights Watch interview with Ali L., Dhaka, December 11, 2002.

²⁰⁹ Ibid.

²¹⁰ Ibid.

²¹¹ Human Rights Watch interview with Monir Chowdhury, Dhaka, December 11, 2002.

²¹² Human Rights Watch interview with Suliman M., Dhaka, December 11, 2002.

²¹³ Ibid.

²¹⁴ Human Rights Watch interview with Kajal J., Dhaka, December 11, 2002.

altogether. “I didn’t like going to school. Classmates called me names like hijra and other mean things.” Asked whether he complained about this abuse to anyone, Mohammad H. noted: “All of my classmates said the same things to me so it was difficult to stop everyone’s mouth. How could I complain about so many people making fun of me?” But at one point, he did tell his teacher about the teasing. “The teacher punished the boys but then things just got worse for me, as the kids got even more angry. . . . Ultimately, I just stopped going to school.” He was fourteen and in eighth standard when he stopped attending school.²¹⁵ Rafiq F. also left school during eighth standard, “because economic conditions were not good . . . and because I didn’t feel comfortable at school as other boys teased me a lot.”²¹⁶

Mohammad H. said that after he was gang-raped by mastans in mid-2002, he was bleeding from the rectum. He said he did not go to see a doctor, however, “because then I would have to tell [the doctor] what happened.”²¹⁷ Mohammad H., who was seventeen years old, noted other ways in which he had experienced discrimination:

Other boys won’t play football or cricket with me but just call me names like hijra. I can’t get a job. Even if I wanted to do a little job, like cooking in a restaurant, the hotel owner won’t accept me because they say I have sex with other men and that is against Islam. Also I can’t attend social gatherings because I am teased and called hijra.²¹⁸

Section 377 of the Penal Code

Bangladesh and India inherited the same penal code from the British colonial administration. Section 377 of both the Bangladeshi and Indian penal codes is titled “Of Unnatural Offences” and reads, in part: “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”²¹⁹ In India, some legal authorities have interpreted this provision to criminalize male-to-male sex. A charge under section 377 was among the charges lodged when police arrested four AIDS outreach workers in Lucknow in July 2001.²²⁰ As of this writing, a constitutional challenge to section 377 is before the Delhi High Court.²²¹

Human Rights Watch did not document any police or government invocations of section 377 in Bangladesh. Most of the arrests recounted to Human Rights Watch were brought under section 54. Whether or not the law is enforced, however, it may effectively criminalize the status of being a kothi or any man who has sex with men. The perception by the police and by society that men who have sex with men are inherently criminal fuels attacks on their dignity and the denial of their equality before the law. A report published by the Bangladesh Ministry of Law, “Mapping Exercise on HIV/AIDS- Law, Ethics and Human Rights,” stated that male sex workers and hijras consulted for the report argued that the section “exists only to be used by the police to victimize gay and bisexual men whom they catch in public areas with a motive to extort money and blackmail.” The report concluded that “Section 377 of the Penal Code violates [the] constitutionally protected right to privacy under the expanded definition of right to life and personal liberty (article 32).”²²² To the extent that section 377 discriminates on the basis of sexual orientation, it is in violation of international human rights law.²²³

²¹⁵ Human Rights Watch interview with Mohammad H., Rajshahi, December 19, 2002. Eighth standard in Bangladesh is the eighth year of school not including kindergarten.

²¹⁶ Human Rights Watch interview with Rafiq F., Rajshahi, December 19, 2002.

²¹⁷ Human Rights Watch interview with Mohammad H., Rajshahi, December 19, 2002.

²¹⁸ Ibid.

²¹⁹ Bangladesh Penal Code, 1898, Section 377.

²²⁰ See, for example, T.K. Rajalakshmi, “Targeting NGOs,” *Frontline*, vol. 18, no. 18, September 2001.

²²¹ See, for example, “High Court seeks Government reply for making gay relations legal,” *The Week*, December 8, 2001 [online], <http://www.the-week.com/21dec09/daily.htm> (retrieved March 2, 2003).

²²² Institutional Development of Human Rights in Bangladesh (IDHRB), “Mapping Exercise on HIV/AIDS- Law, Ethics, and Human Rights” (Dhaka: Ministry of Law, Justice and Parliamentary Affairs, 2002), p. 33.

²²³ Article 26 of the International Covenant on Civil and Political Rights, for example, states in part: “the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any grounds such as

VII. ABUSES AGAINST INJECTION DRUG USERS

Human Rights Watch documented several cases of extortion and beating of injection drug users (IDUs) by the police and by mastans. Human Rights Watch was also told of several arrests of needle exchange outreach workers. As with sex workers and men who have sex with men, Bangladesh's AIDS policy recognizes that drug users must be active partners in the fight against AIDS. Noting the efficiency of HIV transmission via shared needles, the policy states: "Prevention of HIV is however possible if . . . drug users or community organizations are involved in prevention . . . [and] means of behaviour change (access to needles, syringes, bleach, condoms, etc.) are made accessible, [and] options are offered to the IDUs as to how they will make a change in behavior rather than a single approach."²²⁴ Again, as with sex workers and men who have sex with men, mistreatment by police and mastans of injection drug users breeds fear rather than collaboration. Injection drug users become further alienated from figures of authority and from society in general, and it becomes more difficult for them to be participants or beneficiaries of AIDS prevention and care programs. Nothing in the law on narcotics drug use in Bangladesh countenances the police extortion and violence documented here.

Injection drug use rose to a significant level in Bangladesh in the 1990s.²²⁵ The practice is most concentrated in Dhaka and Rajshahi, but present in many cities and towns in western, central, and southeastern Bangladesh. The primary drug used by injection drug users in Bangladesh is buprenorphine, which is sometimes mixed with diazepam and other less expensive drugs.²²⁶ The health ministry announced in June 2003 that its most recent surveillance had found a 4 percent prevalence of HIV among injection drug users in central Bangladesh, up from 1.7 percent in 2001.²²⁷ Human Rights Watch spoke to injection drug users in Dhaka and Rajshahi; some of those interviewed in Rajshahi had lived in Chapai Nawabganj and had come to Rajshahi for treatment.

Abuse by Police

Human Rights Watch gathered several reports of police extortion of injection drug users. Mumdani D., fifty-six, said he had used various kinds of drugs for thirty years. He told Human Rights Watch that police "find out who the addicts are" and then regularly "catch them and take whatever money is in their pockets." Mumdani D. stated that police often threaten arrest when they extort in this way. He reported that police extorted money from him twice in 2002; both times the police took 100 Tk. [U.S.\$1.72].²²⁸

race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." ICCPR (ratified by Bangladesh, 2000). The United Nations Human Rights Committee, the body charged with monitoring compliance with the ICCPR, determined in a 1994 case, *Toonen v. Australia*, that a law in Australia banning sexual contact between consenting adult men was a violation of Australia's obligations as a party to the ICCPR. This decision concluded that the discrimination provision of the ICCPR should be understood to prohibit discrimination on the basis of sexual orientation. See *Toonen vs. Australia*, U.N. Human Rights Committee, CCPR/C/50/D/488/1992, April 4, 1994. For a thorough discussion of the protections in international human rights law against discrimination on the basis of sexual orientation, see Human Rights Watch, *Hatred in the Hallways: Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Students in U.S. Schools* (New York: Human Rights Watch, 2001), ch. XI.

²²⁴ Government of Bangladesh, "National Policy on HIV/AIDS and STD Related Issues," p. 65. Cleaning needles and syringes with household bleach can reduce the risk of transmission of HIV associated with injecting with those needles, but not the risk of hepatitis C transmission. See, for example, Centers for Disease Control and Prevention, "Use of Bleach in Prevention of Transmission of HIV in Health Care Settings," Biosafety Manual [online], <http://www.cdc.gov/od/ohs/biosfty/bleachiv.htm> (retrieved April 20, 2003).

²²⁵ National Assessment of Situation and Responses to Opioid/ Opiate use in Bangladesh (NASROB), "What Will Happen to Us?," June 2002, p. 13.

²²⁶ AIDS and STD Control Programme, Bangladesh Ministry of Health and Welfare, "Report on the Second National Expanded HIV Surveillance," September 2000, p. 20. Buprenorphine is a narcotic derived from thebaine, a minor constituent of opium, rather than from opium itself, but with opiate-like effects. Ibid. Buprenorphine, like methadone, is used medically as substitution therapy for heroin users. Diazepam is the generic name of the antianxiety drug sold under the trade name of Valium in many parts of the world; it is used medically for short-term relief of anxiety.

²²⁷ "HIV infection alarming among drug users," *Daily Star*, June 30, 2003, vol. 4, no. 34, p. 1.

²²⁸ Human Rights Watch interview with Mumdani D., Rajshahi, December 21, 2002.

Mustafa T., a thirty-six-year-old drug user in Rajshahi, was arrested in October 2002 and brought to a police substation. The police asked him for money; they wanted 8000 Tk. [U.S.\$134]. He begged for forgiveness and said he had no money. Ultimately he paid a bribe of 750 Tk. [U.S.\$12.93] for his release.²²⁹ Jail can be the consequence if a user fails to produce a bribe. Afroz F., a thirty-year-old former drug user, said that the police arrested him in 1998 and demanded a bribe of 500 Tk. [U.S.\$8.62]. He only had 72 Tk. [U.S.\$1.24] so the police jailed him under section 54 for seven days.²³⁰ There is no treatment for drug addiction available in jails in Bangladesh.²³¹

Police arrests are sometimes accompanied by violence. Mujib J., thirty-seven, said that when the police saw him injecting heroin in September 2002, they beat him on his back, arrested him, and demanded a bribe of 5000 Tk. [U.S.\$86.21] from him. He offered 500 Tk. [U.S.\$8.62] but the police did not accept. Mujib J. then hit one of the officers. At the police station, he was hung from a tree by his handcuffed hands and beaten ten to twelve times with a police stick. He showed Human Rights Watch scars from the incident that covered half his back. He said he spent two and a half months in jail and paid a 6000 Tk. [U.S.\$103.45] fine before being released. He pled guilty to drug use without complaining about being beaten.²³²

Farukh R., forty, also faced violence and jail after he was unable to pay a bribe. He was arrested in 1997 with five other friends. Three of them paid bribes and were released. Farukh R. had no money and was taken to the police station. He said that police threw him against the wall with his arms tied around his back, and that he bled as a result. He was jailed for six months and paid a 300 Tk. [U.S.\$5.17] fine before being released.²³³

Thirty-year-old former user Musa B. said that he too was often subjected to extortion by police. He said that sometimes, however, police would simply beat him. In December 2002, the police came upon him using heroin at a volleyball stadium in Dhaka. Musa B. ran up the stairs and jumped out of the stadium. He said that the police followed him, caught him, and beat him on his shins, back, and legs. He showed Human Rights Watch researchers a one-inch-square gash on his shin from the incident.²³⁴

Abuse by Mastans

Some drug users also reported facing extortion and violence from mastans. Abbas H., thirty-seven, said that when he was a user mastans would take his needle ten to fifteen times a month and would beat him up because they knew him to be a user.²³⁵ Afroz F., thirty, said that about once a week mastans would come and steal from him and from other friends who were also users. "They took two watches from me; they took money, drugs, and they always took my pride."²³⁶

Kunal N., a twenty-five-year-old former user from Dhaka, was injecting heroin in a public toilet when some mastans snapped a photo of him. Kunal N. said the mastans took him out of the toilet and demanded 10,000 Tk. [U.S.\$172.41] in exchange for the photograph. The mastans threatened to kill him if he did not pay. He paid.²³⁷

Arrests of Needle Exchange Workers

CARE-Bangladesh runs the major needle exchange programs available in Bangladesh, in Dhaka, Rajshahi, and Chapai Nawabganj. These programs provide injection drug users with a range of life-saving services: access to clean needles, access to condoms, referrals for drug treatment, and health care for abscesses, STDs, and other ailments. Several of the injection drug users interviewed by Human Rights Watch reported that

²²⁹ Human Rights Watch interview with Mustafa T., Rajshahi, December 21, 2002.

²³⁰ Human Rights Watch interview with Afroz F., Dhaka, December 23, 2002.

²³¹ NASROB, "What Will Happen to Us," p. 41.

²³² Human Rights Watch interview with Mujib J., Rajshahi, December 21, 2002.

²³³ Human Rights Watch interview with Farukh R., Rajshahi, December 21, 2002.

²³⁴ Human Rights Watch interview with Musa B., Dhaka, December 23, 2002.

²³⁵ Human Rights Watch interview with Abbas H., Rajshahi, December 21, 2002.

²³⁶ Human Rights Watch interview with Afroz F., Dhaka, December 23, 2002.

²³⁷ Human Rights Watch interview with Kunal N., Dhaka, December 23, 2002.

before interacting with needle exchange outreach workers they had often shared needles—indeed, they had not been aware of the risks of sharing needles—but that afterwards they were able to stop sharing needles altogether.²³⁸

The National AIDS policy explicitly embraces needle exchange programs as an important tool in the nation's HIV prevention strategy. The policy notes with concern that “[p]rogrammes are often abstinence oriented in spite of high HIV prevalence.” The policy encourages instead a strategy where “options are offered to the IDUs as to how they will make a change in behaviour rather than a single approach [and where] policy makers are sympathetic and supportive to such programmes even if they might appear to have controversial policies towards drug use in the beginning.” The policy goes further to recognize that “[t]here is overwhelming evidence of the high effectiveness of needle exchange programmes” and that “[s]trict paraphernalia laws restricting procurement of syringes and needles without prescription or misuse of the law (suspects are arrested for carrying injecting equipment) increases the risk of sharing needles and therefore of transmitting HIV.”²³⁹

Staff members of the CARE needle exchange program reported that some officials in the national Narcotics Control Department and some of the police superintendents in the districts where the programs are located recognize the value of the program, unofficially support the program, and agree not to interfere. However, CARE staff reported that in recent years, an outreach worker from one of the three programs was arrested roughly four to five times per year. CARE was generally able to bail out the outreach workers, and charges were usually dropped, but the arrests interrupted the critical activity of the needle exchanges. Farukh R., for example, told Human Rights Watch that prior to entering a rehabilitation program in December 2002, he regularly obtained clean needles from the CARE needle exchange program in Chapai Nawabganj. He said that after the arrest of a needle exchange outreach worker in July 2002, he and other users were fearful and had a hard time locating needle exchange outreach workers. As a result, he noted, he had to share needles with other users for a period of about two weeks before he was able to reestablish regular contact with a needle exchange outreach worker.²⁴⁰ In this way, the arrests of needle exchange workers may pose a direct threat to the health of injection drug users and undermine Bangladesh's fight against HIV/AIDS.

²³⁸ Human Rights Watch interviews with drug users: Rajshahi, December 21; Dhaka, December 23, 2002.

²³⁹ Government of Bangladesh, “National Policy on HIV/AIDS and STD Related Issues,” p. 65.

²⁴⁰ Human Rights Watch interview with Farukh R., Rajshahi, December 21, 2003.

VIII. STATE RESPONSE

Human Rights Watch sent written inquiries to Mudabbir Hussain Chowdhury, the Inspector General of Bangladesh Police, and Professor Mizanur Rahman, Director General of the Bangladesh Directorate of Health regarding the human rights abuses reported here. Neither responded. Representatives from two NGOs working with sex workers, CARE-Bangladesh and Socio-Economic Development Agency of Bangladesh (SEDAB), met with Inspector General Chowdhury in late 2002. The NGO representatives raised the issue of rampant police abuse of sex workers. According to Irina Baumgartner, one of the CARE staff members present at the meeting, Chowdhury's response was that sex work was illegal and that as long as women were engaging in work that was illegal, the police were just doing their jobs.²⁴¹

Chowdhury's reported indifference toward the rights of sex workers unfortunately may not be atypical among policy makers. But violence against women and girls in general has gained some political attention in Bangladesh in recent years. Public outrage in the nineties over several highly publicized cases of rape, including the rape of a girl in police custody, led in part to the 2000 Repression of Violence against Women and Children Act.²⁴² The law imposed stiffer penalties, made attempted rape a crime, and authorized the establishment of special courts for crimes of violence against women and children. The special courts are meant to provide a swifter and more victim-friendly prosecution process; trials are held in private and are supposed to be completed within 120 days of the date a First Information Report (FIR; the form for lodging a complaint about a crime) is filed. Sixty-four courts are planned in total across the country; twenty-seven are operational at this writing. One human rights lawyer involved in the process estimated that the courts have produced approximately 100 convictions so far. None of these, to his knowledge, was for a crime committed against a sex worker.²⁴³ The vision for the special court system is encouraging, but the system's practical usefulness for the vulnerable persons addressed in this report is yet unproven.

Another initiative aimed at addressing violence against women in general that could potentially help sex workers is Prime Minister Khaleda Zia's plan, announced in March 2003, to create twenty-four-hour crisis centers in all divisional hospitals to provide treatment and legal aid to women survivors of violence.²⁴⁴ A survivor would be able to file an FIR at the center itself. One such center is already active in Dhaka. In its first year, the center has investigated 100 cases. Seventy-two were in criminal proceedings as of March 2003, and five had resulted in convictions.²⁴⁵

Reform of the law enforcement system, like dealing with the problem of violence against women, is essential for addressing the abuses described here; perhaps even more than violence against women, police reform is at the forefront of Bangladeshi public debate. Part of Prime Minister Zia's justification for Operation Clean Heart was the ineffectiveness of the police force in controlling crime. The army mobilization raised the pitch of longstanding demands from civil society for police reform. A November 2002 editorial in the *Daily Star*, for example, argued that the army mobilization was necessarily a short term solution and that long-term responsibility for law and order lay with the police. The editorial described the police as "overworked, underpaid and extremely vulnerable to reprisals," and called for "better compensation, stricter departmental discipline, comprehensive training regime and, most importantly, civilian oversight of [the police's] services." The *Star* concluded: "We really believe that the police can rid themselves of their corrupt and inefficient image if they are given the support they need from the government."²⁴⁶

²⁴¹ Human Rights Watch interview with Irina Baumgartner, Dhaka, December 23, 2003.

²⁴² See, for example, Hameeda Hossain, Ain o Salish Kendra (a Bangladeshi human rights organization), "Women campaign for law reform," *A Partnership for Change*, Issue 11, August 1998; Saira Rahman, Odhikar (a Bangladeshi human rights organization), "Reflections on Women and Violence in Bangladesh," *Human Rights Solidarity*, Asia Human Rights Commission, vol. 11, no. 5, May 2001.

²⁴³ Human Rights Watch interview by telephone with human rights lawyer Hossain Shaheid Sumon, Dhaka, March 22, 2003.

²⁴⁴ "PM Opens March; Unite to Fight Discrimination, Repression on Women," *Daily Star*, vol. 3, no. 1241, March 9, 2003.

²⁴⁵ Human Rights Watch interview by telephone with human rights lawyer Hossain Shaheid Sumon, Dhaka, March 22, 2003.

²⁴⁶ "Police Reform Can't Wait," *Daily Star*, vol. 3, no. 1126, November 6, 2002, editorials.

Though little action has been taken as of this writing, the government has announced plans for several reforms of the police and judiciary. Addressing a Women Lawyers' Congress on March 17, 2003, law minister Moudud Ahmed stated that, according to the *Star's* paraphrase, "police do whatever they like because they have been given 'too much power'." Ahmed announced that an independent investigation unit would be formed to monitor police misconduct and that changes would be made to the police recruitment process, in particular a raising of educational requirements. Home minister Atlat Hossain Choudhury, addressing the same congress, stated that the size of the police force was inadequate and would be expanded.²⁴⁷ The High Court ruled in April 2003 that the government must amend several provisions of the Code of Criminal Procedure that govern detention and interrogation, including section 54, in order to provide safeguards against their abuse. It is not clear at this writing how the ruling has been implemented or whether it will be appealed.²⁴⁸

Regarding the judiciary, Law Minister Ahmed declared that public prosecutors, assistant public prosecutors, government pleaders, and assistant government pleaders would be made into civil servants rather than political appointees.²⁴⁹ Ahmed stated that "I am ashamed that all assistant public prosecutors and assistant government pleaders are political appointees. The BNP is now in the government, that's why we have appointed persons who are loyal to the BNP Previous governments also did the same." Second, Ahmed acknowledged: "Many people have been languishing in prison for years without any trial," and promised that the government would identify such detainees and give them legal support. Finally, Ahmed said that district-level funds for legal aid had not been used for three years, and that those funds would be used to provide counsel for women and children in detention.²⁵⁰ Many of the government's plans, in sum, point in the direction of greater protection for human rights. But most of the action is yet to be taken.

²⁴⁷ "Public prosecution system to be recast," *Daily Star*, vol. 3, no. 1249, March 18, 2003, p. 1.

²⁴⁸ "Detention on suspicion made illegal: High Court issues 15-point directive on lawmen," *Daily Star*, vol. 3, no. 1282, April 20, 2003. See discussion in Background chapter.

²⁴⁹ In Bangladesh, public prosecutors prosecute criminal matters on behalf of the government while government pleaders pursue civil matters on behalf of the government.

²⁵⁰ "Public prosecution system to be recast," *Daily Star*, vol. 3, no. 1249, March 18, 2003, p. 1.

IX. CONCLUSION

The Bengali poet Kazi Nazrul Islam made this exhortation, perhaps to the colonialists who ruled what was then an undivided Bengal, in “Day-Laborers”:

If you torment here a single soul
The pain resounds in a crescendo
In the aggrieved hearts of all others.
Insult to a single person here means
Humiliating the whole of humanity²⁵¹

Momtaz Begum, president of the Sex Workers' Network of Bangladesh, told Human Rights Watch that there is a saying among sex workers that the penalty for killing a sex worker is one taka twenty-five paisa, the equivalent of two American cents. Even that, she said, is never paid. Raped, beaten, robbed, hated—sex workers, men who have sex with men, and injection drug users are not counted as people in Bangladeshi society.

Today their plight lies at the intersection of two great challenges for Bangladesh: its crisis of law and order and the threat of a massive AIDS epidemic. Sex workers, men who have sex with men, and injection drug users see the harshest face of a widely corrupt, violent, and exploitative law enforcement system and an unchecked reign of thugs. The government tried to crack down on crime by mobilizing the army in late 2002, but that mobilization itself resulted in many abuses, and left the civil law enforcement system unchanged. Meanwhile, the country is at the edge of what could be a devastating AIDS epidemic, and the abuses by police and mastans against these vulnerable groups degrade exactly the people most needed as partners in fighting the epidemic. Only if their rights are respected will these persons have the power to educate their peers, to protect their own health, and to protect the health of others.

In regard to both challenges, the situation of sex workers, men who have sex with men, and injection drug users represents an opportunity. If Bangladesh can end police abuse of these groups and protect them from abuse by mastans, the nation will have made critical progress, both toward strengthening its fight against AIDS and toward creating an effective, rights-respecting law enforcement system. The nation also will have extended a measure of basic human dignity to people to whom dignity has been long and brutally denied.

²⁵¹ Kazi Nazrul Islam, “Day Laborers,” in *Kazi Nazrul Islam: A New Anthology*, ed. Rafiqul Islam (Dhaka: Bangla Academy Press, 1990), p. 111.

APPENDIX: JUNE 2002 DECLARATION BY SEX WORKERS NATIONAL NETWORK

June Declaration By Sex Workers National Network (18 & 19 June 2002)

1. To ensure the civil rights of the sex workers as the citizens of Bangladesh.
2. To eradicate all the misconceptions about sex work in the legal system.
3. To ensure participation in the process of development project planning and implementation activities by sex workers.
4. To include mothers name at the time of Birth Registration of the children of the sex workers.
5. To ensure social status of sex profession.
6. To ensure the legal status of the sex work.
7. Sex workers would take the initiative to prevent young and under-aged girls to come to this profession.
8. To stop all types of torture and harassment on sex workers and for sex work.
9. To give recognition to the transgender besides men and women for preparing Voter's list.
10. Eviction of sex workers from brothels would not be allowed.
11. Proper measures should be taken to educate the children of the sex workers as well as provide them the environment for normal up bringing in the society.
12. To stop illegal harassment over the income of the sex workers.
13. To take proper actions for the burial rights of the dead sex workers.
14. The sex workers are not vagrants and therefore they should not be put into Vagrancy homes.
15. We want the recognition for the different organizations of the sex workers.

ACKNOWLEDGMENTS

This report was researched by Vivek Maru and Rebecca Schleifer, respectively Alan Finberg fellow and researcher in the HIV/AIDS and Human Rights Program, and Smita Narula, senior researcher in the Asia Division. The report was written by Vivek Maru. It was reviewed by Joanne Csete, director of the HIV/AIDS and Human Rights Program; Smita Narula; LaShawn Jefferson, director of the Women's Rights Division; Wilder Tayler, legal and policy director; and H. Widney Brown, deputy program director. Production assistance was provided by Tommy Yeh, Andrea Holley, Veronica Matushaj, and Fitzroy Hepkins.

We are profoundly grateful to the individuals who shared their stories with us.

We also wish to thank our NGO colleagues in Bangladesh, who are working against HIV/AIDS and for the rights of vulnerable persons, for their invaluable assistance.

We acknowledge with gratitude the financial support of Barbara Finberg and the Sigrid Rausing Trust.